

**DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT
COMMUNITY
(MARKET RATE RESIDENTIAL)**

BY AND BETWEEN

THE

**SUCCESSOR AGENCY
TO THE RICHMOND COMMUNITY
REDEVELOPMENT AGENCY**

AND

MIRAFLORES COMMUNITY DEVCO, LLC

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**DISPOSITION AND DEVELOPMENT AGREEMENT
FOR
MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

THIS DISPOSITION AND DEVELOPMENT AGREEMENT FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY (MARKET RATE RESIDENTIAL) (this “**Agreement**”) is made as of July 19, 2016 (the “**Effective Date**”), by and between the SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”) and MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (the “**Developer**”), with reference to the following findings of facts, understandings and intentions of the Parties:

RECITALS

A. These Recitals refer to and utilize certain capitalized terms which are defined and shall have the meanings set forth in **Article 1** of this Agreement.

B. Agency is owner of approximately 7.3 acres of unimproved property located within the City of Richmond, County of Contra Costa, State of California, and more particularly described and depicted in **Exhibit A-1** and **Exhibit A-2**, respectively, attached hereto (the “**Property**”). Agency succeeded to ownership of the Property from the former Richmond Community Redevelopment Agency.

C. The Property comprises a portion of an approximately fourteen (14)-acre area, the site of former nurseries, that Agency desires to be developed pursuant to the Miraflores Community Development Plan with a mix of market-rate housing, affordable rental units for seniors, greenbelt, historic resources, and related circulation and other infrastructure improvements (the “**Miraflores Community Development**”).

D. The Parties desire to cause the Property to be developed and utilized by means of Developer’s acquisition, obtaining of all necessary entitlements, construction, and sale of residential condominium units within a project consisting of one hundred and sixty (160) market rate “for sale” residential condominium units and thirty (30) “for sale” residential condominium units affordable to moderate income households, together with parking, landscaping, and other ancillary amenities and improvements (both on and off the Property), consistent with this Agreement (the “**Project**”). The proposed Project, which also includes grading and site preparation (including storm drainage facilities) for the Project and the relocation and restoration (as applicable) of certain historic resources within the Property to be Owned by Developer or the HOA (as hereinafter defined) and the relocation and rehabilitation (as applicable) of certain other historic resources to be relocated to the Greenbelt (as hereinafter defined) and retained under Agency ownership, is more fully described in **Exhibit B** attached hereto and incorporated herein (the “**Preliminary Project Plans**”). The Preliminary Project Plans include a preliminary site plan, conceptual design plans, a plan for any demolition and/or relocation of existing improvements, a plan for relocation and rehabilitation (as applicable) of certain historic resources, a phasing plan

(including the location and timing for construction of the Affordable Units), and related description, consistent with the Existing Project Approvals (as hereinafter defined), with respect to the Project which Developer proposes to develop and the additional land use entitlements for which Developer will seek approval from the City in its regulatory capacity.

E. Prior to the Effective Date, and following appropriate environmental review under CEQA and NEPA, the City of Richmond granted certain approvals, permits and certifications, including related conditions of approval, with respect to the proposed Project, including certification of a Final Environmental Impact Report (SCH No. 2007082154) (the “**EIR**”), certification of a Finding of No Significant Impact (FONSI), dated December 21, 2009, a General Plan Amendment (changing land use designations from Low Density Residential and Preservation/Resource Areas to Medium Density Residential) and rezoning (from Single-Family Low Density Residential/Exclusive Agriculture (SFR-3/EA) to Planned Area (PA)), Planned Area Development Permit (PLN 09-026), and Mitigation Monitoring and Reporting Program (“**MMRP**”) (collectively, the “**Existing Project Approvals**”). In so doing, the City found and determined that the Project is consistent with the City’s General Plan and applicable zoning requirements, and will promote and materially contribute to the implementation of the policies, goals and objectives of the General Plan, including the Housing Element, to revitalize the Property and create affordable housing opportunities to help meet the needs of moderate income residents in the City.

F. Pursuant to Agency Board Resolution 14-9, adopted July 15, 2014, Developer was selected through a competitive process by Agency to enter into exclusive negotiations regarding the terms and conditions of a Disposition and Development Agreement pursuant to which Developer will purchase and develop the Property with the Project. Consistent therewith, Agency and Developer entered into an Exclusive Right to Negotiate Agreement Regarding Miraflores Housing Development Community (Market Rate Residential), dated September 16, 2015, as extended by that certain First Amendment to Exclusive Right to Negotiate Agreement Regarding Miraflores Housing Development Community (Market Rate Residential), dated March 16, 2016 (as so amended, the “**ERNA**”), providing, among other things, for a period of exclusive negotiations and Developer due diligence and summarizing certain proposed terms for this Agreement. In accordance with the ERNA, Developer made a nonrefundable deposit payable to Agency in the amount of Two Hundred Thousand Dollars (\$200,000) (the “**ERNA Deposit**”) and entered into exclusive negotiations for this Agreement. Although the Exclusive Period under the ERNA expired on June 14, 2016, the Parties continued to negotiate in good faith to conclude this Agreement.

G. Agency’s negotiation of this Agreement for the disposition of the Property and the development of the Project as contemplated hereunder has been authorized and directed by the Oversight Board of Agency pursuant to the Dissolution Acts by Oversight Board Resolution No. 1-15, adopted February 24, 2015.

H. The Parties currently anticipate that, during the term of this Agreement, there will be developed an 80-unit senior affordable residential rental project (the “**Seniors Project**”) upon approximately 1.58 acres of real property situated adjacent to the Property and also within the Miraflores Community Development (the “**Seniors Project Site**”) pursuant to that certain Disposition, Development and Loan Agreement for Miraflores Senior Apartments (Senior

Affordable Housing Project, dated June 26, 2015, by and among Agency, Community Housing Development Corporation of North Richmond and Eden Housing, Inc. (as may be amended in accordance with the terms thereof, the “**Seniors Project DDLA**”). The development of the Seniors Project is separate and independent from the Project hereunder.

I. The execution and performance of this Agreement is in the vital and best interests of Agency and City and the health, safety and welfare of the City’s residents, and is in accord with applicable provisions of Federal, State and local law.

J. Agency Board approved this Agreement and the Disposition of the Property hereunder by Agency Board Resolution No. 16-5, adopted on July 19, 2016. Prior to the adoption of said Resolution, the Board considered and approved a Summary Report on this Agreement pursuant to California Health and Safety Code Section 33433 (the “**33433 Report**”).

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and obligations of the Parties set forth herein, Agency and Developer hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Definitions.** In addition to the terms defined elsewhere in this Agreement, the following definitions shall apply:

“**Acceptable Guarantor**” means, jointly, the Principals and SDC Inc., a California corporation, or such other entity or persons acceptable to Agency in Agency’s sole and absolute discretion; provided, however, and without limiting such Agency discretion; any such entity shall, in any event and at a minimum, be registered and qualified to transact business in California; and any such entity or person shall have provided to Agency reasonable and customary written evidence from one or more bona fide financial institutions substantiating that such person or entity has on hand at least Five Million Dollars (\$5,000,000) in cash or cash equivalent assets.

“**Additional Deposit**” has the meaning set forth in **Section 2.2**.

“**Additional Offsite Improvements**” has the meaning set forth in **Section 2.5.1.3**.

“**Additional Project Approvals**” has the meaning set forth in **Section 2.3**.

“**Affordable Units**” means all or any of the thirty (30) “for sale” Residential Units within the Project affordable to moderate income households ($\leq 120\%$ AMI).

“**Affordable Units Warranty Period**” has the meaning set forth in **Section 5.6.4**.

“**Affordable Units Warranty Security**” has the meaning set forth in **Section 5.6.4**.

“**Agency**” means Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012, and any successor agency thereto.

2.8. “Agency Approved Preliminary HOA Documents” has the meaning set forth in **Section**

“Agency Attorney” means the Agency Attorney in the Office of the City Attorney.

“Agency Board” means the governing body of Agency. The members of the City Council serve in a separate legal capacity as the members of the Agency Board.

“Agency Closing Conditions” has the meaning set forth in **Section 4.6.1**.

“Agency Closing Funds and Documents” has the meaning set forth in **Section 4.4.2**.

“Agency Date-Down Certificate” has the meaning set forth in **Section 4.4.2.8**.

“Agency Event of Default” has the meaning set forth in **Section 10.3.1**.

“Agency Executive Director” means the Executive Director of the Agency.

“Agency Grant Deed” has the meaning set forth in **Section 4.4.1.4** and refers to the form set forth in attached **Exhibit 4.4.1.4** and otherwise satisfactory to Agency.

“Agency Liens” means the security interests and liens of Agency in and to the Property and other security under the Assignment of Developer Agreements, Plans and Approvals, the Agency Regulatory Agreement, and the Notice of Affordability Restrictions.

“Agency Materials” has the meaning set forth in **Section 4.10.1**.

“Agency Notice of Developer Default” has the meaning set forth in **Section 10.4.2**.

“Agency Option Agreement” has the meaning set forth in **Section 4.6.1.6**, and refers to the form set forth in attached **Exhibit 4.6.1.6-A** and otherwise satisfactory to Agency.

“Agency Parties” means Agency and its Agency Board members, directors, officers, employees, agents, contractors, subcontractors, and representatives, and their respective successors and assigns.

“Agency Regulatory Agreement” has the meaning set forth in **Section 4.4.1.2** and refers to the form set forth in attached **Exhibit 4.4.1.2** and otherwise satisfactory to Agency.

“Agreement” means this Disposition and Development Agreement.

“Applicable Law” means any and all federal, State, and local laws, statutes, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, policies, directives, building codes, zoning codes, standards, permits, licenses, conditions of approval and other requirements adopted by any governmental, administrative or judicial authority including, without limitation, all Project Approvals, all Hazardous Materials Law and other laws and regulations governing environmental conditions, the Davis Stirling Act, and all covenants, conditions and restrictions of record, which are or at any time during the Term may become binding upon or applicable to all or any portion of the Property or the Project or any improvements thereon, or to

the use or operation of all or any portion of the Property or the Project, or to this Agreement and/or the transactions contemplated by this Agreement.

“**Approved Construction Budget**” has the meaning set forth in **Section 2.4.6**.

“**Approved Final Financing Plan**” has the meaning set forth in **Section 2.4.6**.

“**Approved Final Plans**” has the meaning set forth in **Section 2.5.6**.

“**AS-IS Condition**” has the meaning set forth in **Section 4.10.5**.

“**Assignment of Developer Agreements, Plans and Approvals**” has the meaning set forth in **Section 2.7.2** and refers to the form set forth in attached **Exhibit 2.7.2** and otherwise satisfactory to Agency.

“**Assumption of Cell Site Access Easement Agreement**” has the meaning set forth in **Section 6.10**.

“**Bankruptcy/Insolvency Event**” means any of the following:

(1) Insolvency. A court having jurisdiction shall have made or entered any decree or order (i) adjudging Developer or any Principal or Construction Guarantor to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of Developer or any Principal or Construction Guarantor or seeking any arrangement for Developer or any Principal or Construction Guarantor under the bankruptcy law or any other applicable debtor’s relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of Developer or any Principal or Construction Guarantor in bankruptcy or insolvency or for any of its properties, or (iv) directing the winding up or liquidation of Developer or any Principal or Construction Guarantor, if any such decree or order described in clause (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days unless a lesser or greater time period, as applicable, is permitted for such cure under any Permitted Security Interest or Other Approved Security Interest; in which event such lesser or greater time period, as applicable, will apply, or Developer or any Principal or Construction Guarantor shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive.

(2) Assignment; Attachment. Developer or any Principal or Construction Guarantor shall have assigned its assets for the benefit of its creditors 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 ninety (90) days after such event (unless a lesser or greater time period, as applicable, is permitted for such cure under any Permitted Security Interest or Other Approved Security Interest, in which event such lesser or greater time period, as applicable, shall apply) or prior to sooner sale pursuant to such sequestration, attachment or execution.

(3) Suspension; Termination. Developer or any Principal or Construction Guarantor shall have voluntarily suspended its business or fails to maintain its good standing, or shall have been dissolved or terminated.

“**Building Permit**” means a building permit or equivalent permit for construction of all or any portion of the Project issued by the City.

“**Cell Site Access Easement**” has the meaning set forth in **Section 6.10**.

“**Cell Site Access Easement Agreement**” has the meaning set forth in **Section 6.10**.

“**Cell Site Access Easement Relocation**” has the meaning set forth in **Section 6.10**.

“**CEQA**” means the California Environmental Quality Act, Sections 21000 *et seq.* of the Public Resources Code and the CEQA Guidelines set forth at 14 California Code of Regulations Sections 15000 *et seq.*

“**Certificate of Completion**” means either a Certificate of Construction Phase Completion or a Certificate of Project Completion.

“**Certificate of Construction Phase Completion**” means the certificate to be issued by Agency with respect to Completion of Construction of a particular Construction Phase pursuant to **Section 5.9.1** and refers to the form set forth in attached **Exhibit 5.9.1-A**.

“**Certificate of Occupancy**” means a certificate of occupancy for all or any portion of the Project issued by City.

“**Certificate of Project Completion**” means the certificate to be issued by Agency with respect to Completion of the Project pursuant to **Section 5.9.1** and refers to the form set forth in attached **Exhibit 5.9.1-B**.

“**Certificate of Readiness**” has the meaning set forth in **Section 2.9**.

“**CFR**” means the Code of Federal Regulations.

“**City**” means the City of Richmond, a municipal corporation and charter city, operating through its governing body, the City Council, and its various departments.

“**City Council**” means the City Council of the City of Richmond, which is the governing body of the City.

“**City Living Wage Ordinance**” has the meaning set forth in **Section 5.5.5.1**.

“**City Parties**” means City and its City Council members, directors, officers, employees, agents, contractors, subcontractors, and representatives, and their respective successors and assigns.

“Claims” means any and all claims, demands, actions, causes of action, proceedings, liabilities, losses, damages, fines, penalties, liens, costs and expenses (including court costs and reasonable attorneys’, experts’ and consultants’ fees and costs) of any nature whatsoever.

“Close”, Close of Escrow” or “Closing” means the close of Escrow for conveyance of the Property by Agency to Developer as provided in **Article 4**.

“Closing Conditions” has the meaning set forth in **Section 4.6.3**.

“Closing Conditions Satisfaction Date” has the meaning set forth in **Section 4.6.3**.

“Closing Date” means the date of Closing.

“Commence Construction,” “Commenced Construction,” “Commencement of Construction” or similar terms means issuance by City to Developer of a Site Improvement Permit with respect to the Site Improvements or a Building Permit with respect to the Vertical Improvements, as applicable, and issuance by Developer to the Prime Contractor of a notice to proceed with construction of the Site Improvements or Vertical Improvements based on such Site Improvement Permit or Building Permit, as applicable, which notice requires such construction work to commence within five (5) or fewer days after the date of such notice, and such construction work is active and on-going.

“Complete Construction,” “Completed Construction,” “Completion of Construction,” “Completion of the Project” or similar terms means completion of all work on the Site Improvement Phase or any Vertical Improvement Phase or the Project, as applicable, such that Developer shall have obtained: (i) from City, with respect to the Site Improvements, a certificate of completion thereof; (ii) from City, with respect to the Vertical Improvements, the final (last) Certificate of Occupancy for the applicable Vertical Improvements; (iii) from Agency, with respect to any Construction Phase or the Project, the Certificate of Construction Phase Completion with respect thereto; and (iv) from Agency, with respect to the Project, the Certificate of Project Completion with respect thereto. For avoidance of doubt, the terms “Completion of the Project” and “Completion of Construction of the Project” mean completion of the entire Project, including any and all Construction Phases.

“Completion Guarantor” means each Guarantor under and as defined in the Completion Guaranty.

“Completion Guaranty” has the meaning set forth in **Section 2.7.1** and refers to the form set forth in attached **Exhibit 2.7.1** and otherwise satisfactory to Agency.

“Construction Budget” has the meaning set forth in **Section 2.4.2.1**.

“Construction Phase” means, as applicable, each of the Site Improvement Phase and the Vertical Improvement Phase. If the Project does not actually include any such phases, all references in this Agreement to “Construction Phase,” “Site Improvement Phase” or “Vertical Improvement Phase” shall be deemed to refer to the entire Project.

“Construction Plans” means all construction documentation and related materials upon which Developer, and Developer’s several contractors, shall rely in building each and every part of the Project (including landscaping, parking, and common areas) in accordance with the Prime Construction Contract and this Agreement 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”) and, if required by City, sample materials and finishes to be used for the Project, sufficient to permit issuance by City of demolition, grading and building permits consistent with this Agreement, and a time schedule for construction consistent with the Schedule of Performance

“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities or memberships, by contract, or otherwise, and the terms “Controlling” and “Controlled” have the meanings correlative to the foregoing.

“Conventional Construction Lender” means the lender of a Conventional Construction Loan.

“Conventional Construction Loan” means one or more loans to Developer for construction of the Project from private lending institutions (excluding any Developer Affiliate), nonprofit lending groups, and public lenders (other than Agency), approved or deemed approved by Agency in the Approved Final Financing Plan.

“Conventional Construction Loan Closing” means the closing for initial funding or disbursement of a Conventional Construction Loan.

“County” means the County of Contra Costa, a political subdivision of the State of California.

“CPCFA” means the California Pollution Control Financing Authority and any successor agency thereto.

“CPCFA Regulatory Agreement” means that certain CPCFA California Recycle Underutilized Sites (CALReUSE) Remediation Program Regulatory Agreement, dated October 18, 2010, between Agency (as successor to the Redevelopment Agency) and CPCFA with respect to the Miraflores Community Development.

“Davis Stirling Act” means the Davis Stirling Common Interest Development Act, California Civil Code sections 4000-4070, and any successor statute thereto.

“Deposits” means, collectively, the ERNA Deposit and the Additional Deposit.

“Developer” means Miraflores Community Devco, LLC, a California limited liability company, and its successors and assigns approved by Agency or otherwise permitted in accordance with this Agreement.

“Developer Affiliate” means any entity that is directly or indirectly Controlling, Controlled by, or under common Control with Developer, including but not limited to the Developer Members.

“Developer Agreements, Plans and Approvals” means the “Agreements,” “Studies, Plans and Specifications” and “Land Use Approvals” as those terms are defined in the Assignment of Developer Agreements, Plans and Approvals.

“Developer Closing Conditions” has the meaning set forth in **Section 4.6.2**.

“Developer Closing Funds and Documents” has the meaning set forth in **Section 4.4.1**.

“Developer Date-Down Certificate” has the meaning set forth in **Section 4.4.1.8**.

“Developer Event of Default” has the meaning set forth in **Section 10.4.1**.

“Developer Members” means the Principals and any successor members of Developer in accordance with the applicable provisions of **Article 7**.

“Developer Parties” means Developer and its directors, officers, employees, agents, contractors, subcontractors, representatives, successors and permitted assigns.

“Developer Property Testing” has the meaning set forth in **Section 4.10.4.1**.

“Developer’s Ownership Period” means the period of time commencing on the Closing Date and terminating upon the following:

(i) with respect to each Residential Unit other than an Affordable Unit, the date of closing for the sale of such completed Residential Unit by Developer to the anticipated occupant thereof in accordance with this Agreement;

(ii) with respect to each Affordable Unit, the date of closing for the sale of such completed Affordable Unit by Developer to the anticipated occupant thereof in accordance with this Agreement and the Agency Regulatory Agreement;

(iii) with respect to Project Common Area, when ownership of the completed Project Common Area is conveyed by Developer to the HOA in accordance with this Agreement; and

(iv) with respect to the Project, when all of the events described in items (i) through (iii) above, inclusive, shall have occurred with respect to all such Residential Units, Affordable Units and Project Common Area.

For the avoidance of doubt, unless otherwise specified in particular provisions of this Agreement, any reference to “Developer’s Ownership Period” shall be deemed to refer to Developer’s Ownership Period with respect to the Project.

“**Developer’s Title Policy**” has the meaning set forth in **Section 4.7.3**.

“**DIR**” means the California Department of Industrial Relations and any successor agency thereto.

“**Discretionary Additional Project Approvals**” has the meaning set forth in **Section 2.3.1**.

“**Dissolution Acts**” means, collectively, AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012.

“**DOF**” means the California Department of Finance and any successor agency thereto.

“**Drop Dead Date**” means December 1, 2017 or such later date as may be mutually agreed upon by the Parties following the Effective Date.

“**DTSC**” means the California Department of Toxic Substances Control and any successor agency thereto.

“**DTSC Certificate of Completion**” means that certain *Site Certification, Implementation of Remedial Action Plan, Miraflores Housing Development Site, South 47th Street and Wall Avenue, Richmond, Contra Costa County (Site Code 201586)*, dated June 29, 2015, from DTSC to Agency, including the *Remedial Action Certification Miraflores Housing Development Site* enclosed therewith, a copy of which was provided to Developer prior to the Effective Date and a copy of which is on file with Agency.

“**Effective Date**” means the date set forth in the first paragraph of this Agreement.

“**EIR**” has the meaning set forth in **Recital C**.

“**Environmental Reports**” has the meaning set forth in **Section 4.10.1**.

“**ERNA**” has the meaning set forth in **Recital F**.

“**ERNA Deposit**” has the meaning set forth in **Recital F**.

“**Escrow**” means the escrow established with the Title Company for the purpose of conveying the Property from Agency to Developer.

“**Escrow Agent**” shall mean Old Republic Title Company, 555 12th Street, Suite 2000, Oakland CA 94607, (510) 272-1121 office, (510) 208-5045 fax.

“**Existing Project Approvals**” has the meaning set forth in **Recital E**.

“**Final HOA Documents**” has the meaning set forth in **Section 6.3.2.1**.

“**First Source Hiring Agreement**” has the meaning set forth in **Section 5.5.3** and refers to the form set forth in attached **Exhibit 5.5.3** and otherwise satisfactory to Agency.

“Force Majeure Delay” has the meaning set forth in **Section 11.3**.

“Further Encumbrance” has the meaning set forth in **Section 4.7.2**.

“Governing Documents” means, collectively, this Agreement, the Memorandum of DDA, the Completion Guaranty, the Agency Regulatory Agreement, the Notice of Affordability, the Agency Option Agreement, the Memorandum of Agency Option Agreement, the Project Approvals, the Approved Financing Plan, the HOA Documents, and any and all other written agreements, certifications, instruments and other documents required to be executed by Developer and/or the Completion Guarantor and/or Agency hereunder or in connection with the subject matter of this Agreement, and any amendments thereto in accordance therewith.

“Greenbelt” means the greenbelt, and all improvements thereon, to be located along Baxter Creek adjacent to the Project and depicted on the Preliminary Project Plans.

“Hazardous Materials” means any substance, material, or waste which is: (1) defined as a “hazardous waste”, “hazardous material”, “hazardous substance”, “extremely hazardous waste”, “restricted hazardous waste”, “pollutant” or any other terms comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos and asbestos containing materials; (4) polychlorinated biphenyls; (5) radioactive materials; (6) MTBE; or (7) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety, property or the environment. The term “Hazardous Materials” shall not include: (i) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of commercial properties, buildings and grounds, or typically used in household activities, or (ii) 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.

“Hazardous Materials Claims” has the meaning set forth in **Section 6.7.1.3**.

“Hazardous Materials Laws” means all federal, state, and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials.

“Historic Resources” means, collectively, the Onsite Historic Resources and the Offsite Historic Resources.

“Historic Resources Work” means, collectively, the Onsite Historic Resources Work and the Offsite Historic Resources Work.

“HOA” has the meaning set forth in **Section 6.3.2.1**.

“**HOA Documents**” means the Preliminary HOA Documents, the Agency Approved Preliminary HOA Documents, the Proposed Final HOA Documents, and/or the Final HOA Documents.

“**Holder**” has the meaning set forth in **Section 8.2**.

“**HUD**” means the United States Department of Housing and Urban Development and any successor agency thereto.

“**Improvements**” means any and all buildings, structures, fixtures, and other improvements, including but not limited to any work of improvement as defined in California Civil Code Section 8050, constructed, installed, erected, built, placed or performed (or to be so done) by or on behalf of Developer as part of the Project and pursuant to this Agreement, including the Site Improvements and the Vertical Improvements.

“**Independent Consideration**” has the meaning set forth in **Section 4.2.4**.

“**Initial Project Performance and Payment Security**” has the meaning set forth in **Section 5.6.1**.

“**Local Business and Local Hire Requirements**” has the meaning set forth in **Section 5.5.3**.

“**Management Deficiencies**” has the meaning set forth in **Section 6.8.1.2**.

“**Membership Interest**” means an ownership and voting interest in Developer or any Developer Member, as applicable.

“**Memorandum of Agency Option Agreement**” has the meaning set forth in **Section 4.6.1.6** and refers to the form set forth in attached **Exhibit 4.6.1.6-B** and otherwise satisfactory to Agency.

“**Memorandum of DDA**” has the meaning set forth in **Section 11.6** and refers to the form set forth in attached **Exhibit 11.6** and otherwise satisfactory to Agency.

“**Miraflores Community Development**” has the meaning set forth in **Recital C** and includes the Project and the Seniors Project.

“**MMRP**” has the meaning set forth in **Recital E**.

“**NEPA**” shall mean the National Environmental Policy Act of 1969, as amended (42 U.S.C., Sections 4321-4361) and any implementing regulations.

“**Notice of Affordability Restrictions**” has the meaning set forth in **Section 4.4.1.3** and refers to the form set forth in attached **Exhibit 4.4.1.3** and otherwise satisfactory to Agency.

“**Offsite Historic Resources**” has the meaning set forth in **Section 2.5.1.2**.

“**Offsite Historic Resources Work**” has the meaning set forth in **Section 2.5.1.2**.

“**Onsite Historic Resources**” has the meaning set forth in **Section 2.5.1.1**.

“**Onsite Historic Resources Work**” has the meaning set forth in **Section 2.5.1.1**.

“**Other Approved Security Interest**” has the meaning set forth in **Section 8.1**.

“**Outside Closing Date**” has the meaning set forth in **Section 4.3.2**.

“**Oversight Board**” means the Oversight Board to the Successor Agency to the Dissolved Richmond Community Redevelopment Agency established pursuant to the Dissolution Acts.

“**Parties**” means Agency and Developer.

“**Permitted Exceptions**” has the meaning set forth in **Section 4.7.1**.

“**Permitted Security Interest**” has the meaning set forth in **Section 8.1**.

“**Permitted Security Interest Debt**” has the meaning set forth in **Section 8.4.1**.

“**Permitted Transfer**” has the meaning set forth in **Section 7.4**.

“**Permitted Transferee**” has the meaning set forth in **Section 7.4**.

“**Preliminary HOA Documents**” has the meaning set forth in **Section 2.8**.

“**Preliminary Project Plans**” has the meaning set forth in **Recital D**.

“**Prime Construction Contract**” has the meaning set forth in **Section 2.6.1**.

“**Prime Contractor**” shall have the meaning set forth in **Section 2.6.1**.

“**Principals**” means, collectively, Scott Hanks, Roger Richard and Jae Ryu.

“**Progress Reports**” has the meaning set forth in **Section 2.10**.

“**Project**” has the meaning set forth in **Recital D** and more fully described in attached **Exhibit B** and the Approved Final Plans and includes all Site Improvements and Vertical Improvements required to be constructed by Developer hereunder and pursuant to the Project Approvals.

“**Project Approvals**” has the meaning set forth in **Section 2.3**.

“**Project Common Area**” has the meaning set forth in **Section 6.3.2.1**.

“**Project Financing**” has the meaning set forth in **Section 2.4.1**.

“Project Financing Closing” means the closing for initial funding or disbursement of any Project Financing.

“Project Lender” means the lender of a Project Loan, excluding any such lender that is a Developer Member or other Developer Affiliate.

“Project Loans” means, collectively, any and all loans (whether interim, term, permanent or otherwise) made by lenders to Developer during the Term with respect to the Property or the Project in accordance with the Approved Final Financing Plan and this Agreement.

“Project Performance, Payment and Warranty Security” means, collectively, the Initial Project Performance and Payment Security, the Subsequent Project Performance and Payment Security, and the Project Warranty Security.

“Project Taxes” has the meaning set forth in **Section 6.5**.

“Project Warranty Periods” means, collectively, the Site Improvement Warranty Period and the Affordable Units Warranty Period.

“Project Warranty Security” means, collectively, the Site Improvement Warranty Security and the Affordable Units Warranty Security.

“Property” means that certain real property owned by Agency as of the Effective Date, referenced in **Recital B** and more particularly described and depicted in attached **Exhibit A-1** and **Exhibit A-2**, respectively, to be conveyed by Agency to Developer subject to the terms and conditions of this Agreement.

“Proposed Final Financing Plan” has the meaning set forth in **Section 2.4.2**.

“Proposed Final HOA Documents” has the meaning set forth in **Section 6.3.2.1**.

“Proposed Final HOA Revenue and Expense Projections” has the meaning set forth in **Section 6.3.2.1**.

“Proposed Final Plans” has the meaning set forth in **Section 2.5.1**.

“Proposed Financing Plan” has the meaning set forth in **Section 2.4.1**.

“Purchase Price” has the meaning set forth in **Section 4.2**.

“RAP” has the meaning set forth in **Section 4.10.6**.

“Redevelopment Agency” means the former Richmond Community Redevelopment Agency dissolved pursuant to the Dissolution Acts.

“Redevelopment Plan” means the Amended and Restated Redevelopment Plan for Downtown Redevelopment Project Area 10A, as amended.

“Repurchase Election Date” has the meaning set forth in **Section 10.7.3.1**.

“Request for Consent to Transfer” has the meaning set forth in **Section 7.5**.

“Residential Unit Owner” means any owner of a completed Residential Unit other than Developer or any Developer Affiliate.

“Residential Units” means any and all “for sale” or rental residential units within the Project, including any and all condominiums (as that term is defined in the Davis Stirling Act) and any and all Affordable Units.

“RMC” means the Richmond Municipal Code, as amended.

“SB 854” means the California legislation commonly referred to as SB 854 and comprising Stat. 2014, chapter 28, and any successor statute thereto.

“Schedule of Insurance Requirements” has the meaning set forth in **Section 6.8.1.2** and refers to the Schedule of Insurance Requirements attached hereto as **Exhibit 6.8.1.2**.

“Schedule of Performance” has the meaning set forth in **Section 2.3** and refers to the Schedule of Performance attached hereto as **Exhibit 2.3**.

“Security Interest” has the meaning set forth in **Section 8.1**.

“Seniors Project” has the meaning set forth in **Recital H**.

“Seniors Project DDLA” has the meaning set forth in **Recital H**.

“Seniors Project Developer” means the developer of the Seniors Project pursuant to the Seniors Project DDLA.

“Seniors Project Site” has the meaning set forth in **Recital H**.

“Site Improvement Permit” means a grading permit and/or any other site improvement permit for construction of all or any portion of the Site Improvements issued by the City

“Site Improvement Phase” means the phase of construction of the Project consisting of all Site Improvements. There shall be only one (1) Site Improvement Phase, if any.

“Site Improvement Warranty Period” has the meaning set forth in **Section 5.6.3**.

“Site Improvement Warranty Security” has the meaning set forth in **Section 5.6.3**.

“Site Improvements” means all on-site Improvements and off-site Improvements and construction thereof relating to the Project and pursuant to this Agreement, including grading and installation of utilities and Project infrastructure, construction and installation of the Project Common Area, and the Additional Offsite Improvements, and excluding any Vertical Improvements.

“Special Tax Allocation Procedures” has the meaning set forth in **Section 5.5.6.1** and attached hereto as **Exhibit 5.5.6.1**.

“**Subdivision Map Act**” means the Subdivision Map Act, California Government Code sections 66410 *et seq.*, and any successor statute thereto.

“**Subsequent Project Performance and Payment Security**” has the meaning set forth in **Section 5.6.2**.

“**Temporary Right of Entry**” has the meaning set forth in **Section 4.10.4.1**.

“**Term**” means the term of this Agreement, commencing as of the Effective Date and ending on the earlier to occur of (A) or (B) as follows:

(A) when all of the following shall have occurred:

(i) the Completion of the Project;

(ii) the termination of Developer’s Ownership Period with respect to the Project;

(iii) the expiration of the Project Warranty Periods; and

(iv) the satisfaction of all obligations of Developer secured by the Project Warranty Security; or

(B) the date of any sooner termination of this Agreement in accordance with the terms of this Agreement; provided, however, that nothing herein shall relieve or release Developer from any of its obligations under the Project Warranty Security, which obligations shall survive the Term for the Project Warranty Periods

“**Termination of Agency Option Agreement**” has the meaning set forth in **Section 4.6.1.6**.

“**33433 Report**” has the meaning set forth in **Recital J**.

“**Title Company**” means Old Republic Title Company, 555 12th Street, Suite 2000, Oakland CA 94607, (510) 272-1121 office, (510) 208-5045 fax or such other title company as the Parties may mutually select.

“**Title Report**” has the meaning set forth in **Section 4.7.1.1**.

“**to the best of Agency’s knowledge**” means to the actual knowledge of Chadrick Smalley, without having conducted any independent investigation or study or having made any further inquiry and without any obligation to do so.

“**Transfer**” has the meaning set forth in **Section 7.1**.

“**Unrecorded Agreements**” has the meaning set forth in **Section 4.10.1**.

“**VCA**” has the meaning set forth in **Section 4.10.6**.

“**Vertical Improvement Phase**” means each and every phase of construction of the Project consisting of or including Vertical Improvements.

“**Vertical Improvements**” means all Improvements and construction thereof relating to the Project and pursuant to this Agreement other than the Site Improvements, and including the Residential Units and associated parking, hardscape, landscaping and irrigation, and the Historic Resources Work.

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

Exhibit A-1	Legal Description of Property
Exhibit A-2	Diagram of Property
Exhibit B	Preliminary Project Plans
Exhibit 2.3	Schedule of Performance
Exhibit 2.4.1	Proposed Financing Plan
Exhibit 2.4.6	Approved Final Financing Plan (To Follow)
Exhibit 2.7.1	Form of Completion Guaranty
Exhibit 2.7.2	Form of Assignment of Developer Agreements, Plans and Approvals
Exhibit 4.4.1.2	Form of Agency Regulatory Agreement
Exhibit 4.4.1.3	Form of Notice of Affordability Restrictions
Exhibit 4.4.1.4	Form of Agency Grant Deed
Exhibit 4.4.1.8	Form of Developer Date-Down Certificate
Exhibit 4.4.2.8	Form of Agency Date-Down Certificate
Exhibit 4.6.1.6-A	Form of Agency Option Agreement
Exhibit 4.6.1.6-B	Form of Memorandum of Agency Option Agreement
Exhibit 4.6.1.6-C	Form of Termination of Agency Option Agreement
Exhibit 4.7.1.1	Title Report
Exhibit 4.10.1	List of Certain Environmental Reports
Exhibit 5.5.3	Form of First Source Hiring Agreement
Exhibit 5.5.6.1	Special Tax Allocation Procedures
Exhibit 5.9.1-A	Form of Certificate of Construction Phase Completion
Exhibit 5.9.1-B	Form of Certificate of Project Completion
Exhibit 6.8.1.2	Schedule of Insurance Requirements
Exhibit 6.10	Form of Assumption of Cell Site Access Easement Agreement
Exhibit 11.6	Form of Memorandum of DDA

ARTICLE 2
DEVELOPER PREDISPOSITION ACTIONS

2.1 Overview. This **Article 2** sets forth various actions that Developer shall seek diligently and in good faith to perform and achieve in order for Agency to convey the Property to Developer in accordance with **Article 4**. Performance and achievement of the actions set forth in this **Article 2** constitute conditions precedent to Agency’s obligation to Close. As conditions precedent to Agency’s obligation to Close, the conditions set forth in this **Article 2** must first be met unless such times are extended in writing by Agency in its sole and absolute discretion. Only

Agency can waive satisfaction of the conditions set forth in this **Article 2**. Additional conditions precedent to Agency's obligation to Close are set forth in **Section 4.6.1**. Developer must have satisfied (or Agency must have so waived) every condition in this **Article 2** by not later than the Drop Dead Date, or else Agency, as its sole and exclusive remedy, may terminate this Agreement pursuant to **Section 10.2**

2.2 Additional Deposit. Not later than five (5) business days after the Effective Date, Developer shall deposit into Escrow the sum of One Hundred Fifty Thousand Dollars (\$150,000) (the "**Additional Deposit**"), which shall be handled by Escrow Agent in accordance with the provisions of **Section 4.2.2**. Upon release and payment of the Additional Deposit to Agency, and subject to the provisions of **Section 4.2.2**, Agency may use the Additional Deposit at any time and for any purpose with respect to the Property or the transaction contemplated by this Agreement, including but not limited to helping to defray the costs and expenses incurred by Agency in connection with the negotiation, preparation and implementation of this Agreement.

2.3 Project Approvals.

2.3.1 Timing and Types. The Parties acknowledge that, as of the Effective Date, Developer has obtained or succeeded to the Existing Project Approvals. Not later than the time specified in the schedule summarizing and setting forth the dates and/or time periods by which certain obligations of the Parties under this Agreement must be accomplished and attached hereto as **Exhibit 2.3** (the "**Schedule of Performance**"), Developer shall apply for and exercise diligent good faith efforts to obtain all City and other governmental approvals, both discretionary and ministerial, in addition to and consistent with the Existing Project Approvals, necessary for the construction, use and operation of the Project consistent with the requirements and provisions of this Agreement, including but not limited to any and all tentative (vesting tentative) and final maps, design review permit, grading permits, Building Permits and certificates of occupancy, and any and all necessary environmental approvals, certifications and clearances related to any of the foregoing (collectively, the "**Additional Project Approvals**," and, together with the Existing Project Approvals, the "**Project Approvals**"). Not later than the applicable date set forth in the Schedule of Performance, Developer shall submit to City complete applications for approval of a tentative (or vesting tentative) map, design review permit, and any and all other discretionary Additional Project Approvals (collectively, the "**Discretionary Additional Project Approvals**"). Prior to or concurrently with Developer's submittals of applications to the City for any and all Additional Project Approvals (discretionary and ministerial), Developer shall submit to Agency a complete copy of such applications.

2.3.2 Environmental Review. Developer acknowledges and agrees that the issuance of any Additional Project Approvals may require and is conditioned upon, among other things, the preparation and certification or approval (including all appropriate findings) by City and/or Agency, as applicable, of all related environmental review documents required under CEQA, NEPA and/or other Applicable Law. As part of its application submittals for any Additional Project Approvals, Developer shall prepare and submit to City and/or Agency all necessary documents to conduct appropriate environmental review of such applications under CEQA and/or other Applicable Law. Such environmental review also shall be subject to the provisions of **Section 3.2**. The Parties acknowledge their mutual understanding that the EIR was prepared to be the Environmental Impact Report for the Project and should be relied upon to the

fullest extent appropriate under CEQA in conducting any such environmental review for any Additional Project Approvals.

2.4 Financing Plan; Availability of Funds.

2.4.1 Proposed Financing Plan. Developer has prepared and submitted to Agency, and by execution of this Agreement Agency approves, Developer's proposed plan for financing all costs of acquisition of the Property and development, construction, and Residential Unit marketing and sales, of the Project in accordance with this Agreement (the "**Project Financing**"), a copy of which is attached hereto as Exhibit 2.4.1 (the "**Proposed Financing Plan**").

2.4.2 Final Financing Plan. In the event that, following the Effective Date, there is any material change, modification, revision or alteration to the information or terms set forth in the Proposed Financing Plan, or Agency determines that its receipt of confirmation or an update of such information or terms is reasonably necessary for Agency to be assured of the continued financial feasibility of the Project, then not later than the time specified on the Schedule of Performance, Developer shall submit to Agency for Agency reasonable approval hereunder a proposed final plan for Project Financing consistent with the form of the Proposed Financing Plan and otherwise in form reasonably acceptable to Agency (each a "**Proposed Final Financing Plan**"). Without limiting the preceding sentence, each Proposed Final Financing Plan shall include the following:

2.4.2.1 An updated "sources and uses" breakdown of all costs of acquiring the Property and development and construction of the Project, including but not limited to a detailed proforma budget for all costs of construction of the Project (the "**Construction Budget**"), an updated Residential Unit marketing and sales proforma for the Project for Developer's Ownership Period with respect to the Project, and an estimated revenue and expense projection for the HOA for the first five (5) years following Developer's Ownership Period with respect to the Project. Such updated sources and uses breakdown and marketing and sales proforma shall reflect Developer's then current expectations of sources for all Project Financing and costs of development, construction, and Residential Unit marketing and sales for the Project. Without limitation, the Construction Budget shall include separate line items for all costs of design, engineering, construction and installation of each of the Additional Offsite Improvements. The Proposed Final HOA Revenue and Expense Projections shall be submitted by Developer to Agency for approval in accordance with **Section 6.3.2**

2.4.2.2 Copies of funding commitments from the lender(s) and/or other external financing source(s) for all Project Financing, in form and amounts, and subject only to such customary lender conditions, sufficient to demonstrate to Agency's satisfaction that the Project is financially feasible, and certified by Developer to be true and correct copies thereof.

2.4.2.3 Any other information that would assist Agency, in Agency's reasonable judgment, in determining that Developer has the financial capability to pay all costs of acquisition of the Property and development, construction, marketing and sales of the Project in accordance with this Agreement and the Agency Regulatory Agreement, including but not limited to any information required by HUD in connection with any of the Affordable Units. In the event

Developer determines that financing for the Project is or becomes infeasible, then without limiting either Party's other obligations and rights under this Agreement, Developer shall promptly notify Agency in writing and request a meeting with Agency representatives as soon as possible.

2.4.3 Upon receipt by Agency of any Proposed Final Financing Plan, Agency shall review the Proposed Final Financing Plan and shall approve or disapprove it within fifteen (15) business days after submission by Developer. Agency's review of the Proposed Final Financing Plan shall be limited to determining if the Project Financing contemplated in the Proposed Final Financing Plan would provide sufficient and reasonably available funds to undertake and acquire the Property and Commence and Complete Construction of the Project and satisfy Developer's other obligations hereunder, and determining if such Project Financing and Proposed Final Financing Plan are consistent with the terms of this Agreement. Subject to the foregoing, Agency's approval of any Proposed Final Financing Plan shall not be unreasonably withheld. If Agency does not either approve or disapprove the Proposed Final Financing Plan in writing within such fifteen (15) business day period, the Proposed Final Financing Plan shall be deemed disapproved by Agency as of the expiration of such fifteen (15) business day period, in which event the provisions of **Section 2.4.5** shall apply.

2.4.4 If the Proposed Final Financing Plan is disapproved by Agency pursuant to **Section 2.4.3**, Agency shall set forth in writing and notify Developer of the reasons therefore. Within ten (10) business days following Agency's notification of disapproval (or by such reasonably extended deadline as may be granted by Agency in order to accommodate Developer's restructuring of the Proposed Final Financing Plan), Developer shall resubmit a revised Proposed Final Financing Plan to Agency for its approval, which shall not be unreasonably withheld. Agency shall either approve or disapprove the revised Proposed Final Financing Plan within ten (10) business days following resubmission by Developer, and if disapproved, this Agreement may be terminated pursuant to **Section 10.2**. If Agency does not either approve or disapprove the revised Proposed Final Financing Plan in writing within such ten (10) business day period, the revised Proposed Final Financing Plan shall be deemed disapproved by Agency as of the expiration of such ten (10) business day period, in which event the provisions of **Section 2.4.5** shall apply.

2.4.5 If the Proposed Final Financing Plan is deemed disapproved by Agency pursuant to **Section 2.4.3**, or the revised Proposed Final Financing Plan is deemed disapproved by Agency pursuant to **Section 2.4.4**, Developer may then resubmit to Agency, within five (5) business days following expiration of the applicable Agency review period pursuant to **Section 2.4.3** or **Section 2.4.4**, such Proposed Final Financing Plan or such revised Proposed Final Financing Plan, as applicable, together with written notice to Agency indicating that if Agency fails to act on the Proposed Final Financing Plan or revised Proposed Final Financing Plan as so resubmitted within five (5) business days following Agency's receipt of such notice, then such Proposed Final Financing Plan or revised Proposed Final Financing Plan shall be deemed approved by Agency pursuant to the provisions of this **Section 2.4.5**. For purposes of this **Section 2.4.5**, Developer shall deliver such notice by certified mail to the Agency Executive Director with a copy to the Agency Attorney. If Agency fails to act on such Proposed Final Financing Plan or revised Proposed Final Financing Plan within five (5) business days following its receipt of such notice, then such Proposed Final Financing Plan or revised Proposed Final Financing Plan as so resubmitted shall be deemed approved by Agency and Agency may not terminate this Agreement pursuant to **Section 10.2** based on such inaction or deemed approval. Only upon the approval or

deemed approval of a Proposed Final Financing Plan or revised Proposed Final Financing Plan as set forth in this **Section 2.4** shall the pre-disposition condition set forth in this **Section 2.4** be deemed met; provided, however, that if no Proposed Final Financing Plan is required to be submitted by Developer prior to the Closing Date pursuant to the provisions of **Section 2.4.2**, the Proposed Financing Plan shall be deemed the Approved Final Financing Plan hereunder.

2.4.6 The parties further acknowledge and agree that notwithstanding the time requirements set forth in this **Section 2.4** for submittal and resubmittal to Agency by Developer of a Proposed Final Financing Plan and review and approval of the Proposed Final Financing Plan by Agency, Developer is responsible for ensuring that any Proposed Final Financing Plan is submitted to Agency in approvable form in a timely manner such that Agency may have the time permitted by this **Section 2.4** to review and approve a Proposed Final Financing Plan no later than the outside date for such approval set forth in the Schedule of Performance. The Proposed Financing Plan or the last Proposed Final Financing Plan approved by Agency pursuant to this **Section 2.4**, as applicable, shall be referred to herein as the “**Approved Final Financing Plan**” and the Construction Budget approved by Agency as part of the Approved Final Financing Plan shall be referred to herein as the “**Approved Construction Budget**”). Prior to Closing, the Approved Final Financing Plan shall be attached hereto as **Exhibit 2.4.6**, but the failure to attach any Approved Final Financing Plan shall not be a default hereunder or modify any of the Parties’ respective rights or obligations hereunder.

2.4.7 Prior to issuance of the Certificate of Project Completion, any material change, modification, revision or alteration of the then Approved Final Financing Plan must first be submitted to and approved by Agency for conformity to the provisions of this Agreement, which approval process also shall be subject to the provisions of **Section 2.4.5**. If not so approved or deemed approved, as applicable, the then Approved Final Financing Plan shall continue to control.

2.4.8 Not later than the applicable date set forth in the Schedule of Performance, Developer shall submit to Agency written evidence reasonably acceptable to Agency that any conditions precedent to the release or expenditure of all Project Financing described in the Approved Final Financing Plan have been met or will be met at the Closing or such later date specified herein, and that all such Project Financing will be available at or following the Closing for construction of the Project in accordance with this Agreement and the other Governing Documents (the “**Evidence of Availability of Funds**”).

2.5 Submittal and Approval of Final Plans for Project.

2.5.1 Not later than the applicable date set forth in the Schedule of Performance, Developer shall submit to Agency, for its review and approval, proposed final plans for development of the Project, including the Site Improvements, Vertical Improvements, Historic Resources Work, Additional Offsite Improvements and any plan for phasing of Project construction (including any Site Improvement Phase and Vertical Improvements Phase(s)), which Developer intends to use as the basis for, and to incorporate within, Developer’s applications to City (and any other agencies with approval authority) for the Additional Project Approvals, which shall be substantially consistent with the Preliminary Project Plans and shall include, at a minimum, all information of the type included within the Preliminary Project Plans (collectively,

the “**Proposed Final Plans**”). Without limiting the preceding sentence, the Proposed Final Plans shall include plans for the following:

2.5.1.1 removal and relocation within the Property and the construction of adequate new foundations and the placement thereon of the historic Sakai main house, tank house, water tower, and greenhouse 20 (the “**Onsite Historic Resources**”) and the rehabilitation of greenhouse 20 to a level consistent with the MMRP and reasonably satisfactory to Agency (the “**Onsite Historic Resources Work**”);

2.5.1.2 removal and relocation from the Property to the Greenbelt and the construction of adequate new foundations and the placement thereon of the historic Oishi House and (and to the extent feasible) greenhouses 17 and 18 (collectively, “**Offsite Historic Resources**”) and the rehabilitation of greenhouses 17 and 18 to a level consistent with the MMRP and reasonably satisfactory to Agency; provided, however, that in the event it proves infeasible to so relocate such greenhouses, the Proposed Final Plans shall include plans for constructing an interpretive example of such a greenhouse on the Greenbelt consistent with the MMRP and reasonably satisfactory to Agency (the “**Offsite Historic Resources Work**”); and

2.5.1.3 any additional Improvements within the Miraflores Community Development and off-site from the Property that are, or the Parties then anticipate will be, required by City pursuant to the EIR, the other Existing Project Approvals or otherwise in order to grant the Additional Project Approvals (collectively, the “**Additional Offsite Improvements**”).

2.5.2 Agency shall approve or disapprove, in its reasonable discretion, the Proposed Final Plans within fifteen (15) business days following receipt. Any disapproval of the Proposed Final Plans shall state in writing the specific and detailed reasons for the disapproval and the changes Agency reasonably requests in order to obtain Agency approval. Agency’s disapproval of the Proposed Final Plans shall be based solely on one or more of the following: (a) the Proposed Final Plans are incomplete; (b) the Proposed Final Plans do not conform with the Existing Project Approvals; (c) the Proposed Final Plans are not substantially consistent with the Preliminary Project Plans; (d) the Proposed Final Plans do not comply with the requirements of this Agreement; (e) the Proposed Final Plans do not conform with all other Applicable Law; and/or (f) the Proposed Final Plans do not incorporate all applicable mitigation measures required pursuant to the Existing Project Approvals and other Applicable Law.

2.5.3 If the Proposed Final Plans are disapproved by Agency in whole or in part, Developer shall have fifteen (15) business days following receipt of Agency’s disapproval notice (or such additional reasonable time as may be granted by Agency in order to accommodate Developer’s revision of the Proposed Final Plans) to submit to Agency new or revised Proposed Final Plans. Agency shall approve or disapprove, in its reasonable discretion, any such resubmitted Proposed Final Plans and the same timelines and procedures for approval or disapproval shall apply to the resubmitted Proposed Final Plans as set forth above for the original submission.

2.5.4 If Developer submits, and as applicable resubmits, the Proposed Final Plans in an approvable form to Agency and Agency neither approves or disapproves in writing the submittals within the time periods established in this **Section 2.5**, the submitted Proposed Final Plans shall be deemed disapproved by Agency. Developer may then provide written notice to

Agency, within five (5) business days following expiration of the applicable Agency review period, indicating that if Agency fails to act on the Proposed Final Plans as so submitted or resubmitted within five (5) business days following Agency's receipt of such notice, then such submitted or resubmitted Proposed Final Plans, as applicable, shall be deemed approved by Agency pursuant to the provisions of this **Section 2.5.4**. For purposes of this **Section 2.5.4**, Developer shall deliver such notice by certified mail to the Agency Executive Director with a copy to the Agency Attorney's Office. If Agency fails to act on such Proposed Final Plans within five (5) business days following its receipt of such notice, then such Proposed Final Plans as so submitted or resubmitted shall be deemed approved by Agency and Agency may not terminate this Agreement pursuant to **Section 10.2** based on such inaction or deemed approval.

2.5.5 The Parties further agree and understand that notwithstanding the time requirements set forth in this **Section 2.5** for submittal and resubmittal to Agency by Developer of a Proposed Final Plan and review and approval of the Proposed Final Plan by Agency, Developer shall be responsible for ensuring that any Proposed Final Plan is submitted to Agency in approvable form in a timely manner such that Agency may have the time permitted by this **Section 2.5** to review and approve a Proposed Final Plan no later than the outside date for such approval set forth in the Schedule of Performance. Any approval or deemed approval by Agency pursuant to this **Section 2.5** shall not constitute, substitute for, or guaranty approval of any Building Permit or other Additional Project Approvals.

2.5.6 The Proposed Final Plans approved by City and approved, or deemed approved, by Agency pursuant to this **Section 2.5** shall be referred to herein as the "**Approved Final Plans**." A copy of the Approved Final Plans shall be maintained on file with Agency.

2.6 Construction Contracts.

2.6.1 Developer shall enter into one or more construction contracts with a reputable prime general contractor (the "**Prime Contractor**") for construction of the Project in accordance with the Approved Final Plans and this Agreement (collectively, the "**Prime Construction Contract**"). The Prime Construction Contract shall provide for the work to be performed for fixed and specified maximum amounts or allowances, pursuant to the Approved Final Plans and the Approved Final Financing Plan. If separate construction contracts are entered into for the Site Improvements and the Vertical Improvements, then the references herein to the "Prime Construction Contract" shall include each such contract, as applicable, with respect to the scope of work thereunder, and each reference herein to the "Prime Contractor" shall refer to each of the contractors thereunder. In the event that Developer is then a general contractor, appropriately and duly licensed and in good standing under Applicable Law (with written evidence thereof having been provided by Developer to Agency in form satisfactory to Agency), then except as otherwise provided in this **Section 2.6**, the provisions of this **Section 2.6** shall not apply with respect to any portion of the Project to be constructed by Developer in its capacity as such a general contractor.

2.6.2 Not later than the applicable date set forth in the Schedule of Performance, Developer shall submit a copy of the proposed Prime Construction Contract to the Agency Executive Director, or his or her designee, for Agency approval solely as to the following: (a) that the amount of the costs of work has been reasonably estimated and is consistent with the

amount set forth in the Approved Final Financing Plan; (b) that no changes to the provisions of the Prime Construction Contract requiring the approval of Agency under **Section 5.4** shall be made without the prior consent of the Agency Executive Director, or his or her designee; (c) that the covenants as to Equal Opportunity, Prevailing Wages, Living Wages, First Source hiring, and non-discrimination set forth in **Sections 5.5** and **6.6** have been met; and (d) that the proposed Prime Construction Contract is otherwise consistent with this Agreement. Any Agency disapproval of the proposed Prime Construction Contract shall specify the reasons for such disapproval and the changes Agency reasonably requires in order to obtain Agency approval. Unless the Agency Executive Director, or his or her designee notifies Developer in writing within ten (10) business days of submitting the proposed Prime Construction Contract that the proposed Prime Construction Contract has been approved or disapproved, it shall be deemed disapproved by Agency as of the expiration of such ten (10) business day period. Developer may then resubmit to the Agency Executive Director, the revised proposed Prime Construction Contract within five (5) business days following such disapproval, or the original proposed Prime Construction Contract within five (5) business days following expiration of the Agency review period (in the event of deemed disapproval), in each case together with written notice indicating that if Agency fails to act on the revised proposed Prime Construction Contract or original proposed Prime Construction Contract, as applicable, as so resubmitted within five (5) business days following receipt of such notice, then such revised proposed Prime Construction Contract or original proposed Prime Construction Contract, as applicable, shall be deemed approved by Agency pursuant to the provisions of this **Section 2.6.2**. For purposes of this **Section 2.6.2**, Developer shall deliver such notice by certified mail to the Agency Executive Director with a copy to the Agency Attorney. If the Agency Executive Director fails to act on such resubmitted revised proposed Prime Construction Contract or original proposed Prime Construction Contract, as applicable, within five (5) business days following its receipt of such notice from Developer, then such resubmitted revised proposed Prime Construction Contract or original proposed Prime Construction Contract, as applicable, shall be deemed approved by Agency. Agency's approval or deemed approval of the Prime Construction Contract shall merely constitute satisfaction of the pre-disposition condition set forth in this **Section 2.6**. In the event that Developer is acting as the general contractor for the Project, then (i) the provisions and requirements of this **Section 2.6** shall apply to any and all subcontracts for the Site Improvements and Vertical Improvements, including the requirement for Agency approval, where the value of such a subcontract is equal to or more than the threshold expenditure amount then established under the City Living Wage Ordinance that renders a subcontractor with a subcontract of such value subject to compliance with the City Living Wage Ordinance (which threshold expenditure amount the Parties acknowledge is Twenty-Five Thousand Dollars (\$25,000) as of the Effective Date) (collectively, "**Prime Subcontracts**"); (ii) all references in this Agreement to "Prime Construction Contract" shall be deemed to refer to "Prime Subcontracts;" and (iii) all references in this Agreement to "Prime Contractor" shall be deemed to refer to the subcontractor under any Prime Subcontract.

2.6.3 Developer shall enter into the Prime Construction Contract, the Prime Subcontracts and any other contracts as may be necessary and appropriate for construction of the Project only with licensed contractors having the reputation, experience, skill, and financial capability and qualification for serving as a contractor on first-class construction projects of similar magnitude in Northern California.

2.6.4 The Parties agree that notwithstanding the time requirements set forth in this **Section 2.6** for submission to Agency by Developer of the proposed Prime Construction Contract and review and approval of the Prime Construction Contract by Agency, Developer is responsible for ensuring that the Prime Construction Contract is submitted to Agency in approvable form in a timely manner such that Agency may have the time permitted by this **Section 2.6** to review and approve the Prime Construction Contract not later than the applicable date set forth in the Schedule of Performance.

2.7 Completion Guaranty; Assignment of Developer Agreements, Plans and Approvals; Initial Project Performance and Payment Security.

2.7.1 Completion Guaranty. At least five (5) business days prior to Closing, Developer shall deliver to Agency a written guaranty, substantially in the form attached hereto as **Exhibit 2.7.1** and otherwise satisfactory to Agency, and executed by the Acceptable Guarantor, guarantying the Commencement and Completion of Construction of the Project, including any and all Construction Phases, in accordance with this Agreement (the “**Completion Guaranty**”).

2.7.2 Assignment of Developer Agreements, Plans and Approvals. Not later than ten (10) business days after the Effective Date, Developer shall deliver to Agency an executed Assignment of Developer Agreements, Plans and Specifications, and Approvals from Developer to Agency, substantially in the form attached hereto as **Exhibit 2.7.2** and otherwise satisfactory to Agency (the “**Assignment of Developer Agreements, Plans and Approvals**”).

2.7.3 Initial Project Performance and Payment Security. At least five (5) business days prior to Closing, Developer shall furnish, or cause the Prime Contractor to furnish, to Agency the Initial Project Performance and Payment Security pursuant to **Section 5.6.1**.

2.8 Preliminary Homeowners Association Documents. Not later than the applicable date set forth in the Schedule of Performance, Developer shall submit to the Agency Executive Director and Agency Counsel for their review and written approval, which shall not be unreasonably withheld, conditioned or delayed, proposed forms of the HOA Documents required pursuant to **Section 6.3.2.1** (collectively, the “**Preliminary HOA Documents**”). If Agency neither approves nor disapproves in writing the Preliminary HOA Documents within fifteen (15) business days after they are submitted to Agency, Developer may then submit to Agency written notice to Agency indicating that if Agency fails to act on the request for approval of such Proposed HOA Documents within five (5) business days following Agency’s receipt of such notice, then such Preliminary HOA Documents shall be deemed approved by Agency pursuant to the provisions of this **Section 2.8**. If Developer so submits to Agency such written notice and if Agency fails to act on the request for approval of such Preliminary HOA Documents within five (5) business days following Agency’s receipt of such notice, then such Preliminary HOA Documents shall be deemed approved by Agency pursuant to the provisions of this **Section 2.8**. Developer hereby agrees to the inclusion of the requirements of this **Section 2.8** as a condition of any Additional Project Approvals granted by City and, whether or not actually included as a condition of approval in the Additional Project Approvals, such requirements shall be deemed included as such a condition of approval for all purposes under this Agreement. The Preliminary HOA Documents approved or deemed approved by Agency under this **Section 2.8** are herein referred to as the “**Agency Approved Preliminary HOA Documents**.”

2.9 Certificate of Readiness. Prior to the Closing, Developer shall certify to Agency in writing, in a form acceptable to Agency, that Developer is ready, willing and able, in accordance with the terms and conditions of this Agreement, to meet its obligations with respect to acquisition of the Property and construction of the Project, and that all pre-disposition requirements of Developer under **Article 2** of this Agreement have been fulfilled (hereafter referred to as the “**Certificate of Readiness**”). The delivery by Developer to Agency of the Certificate of Readiness shall be a condition precedent to Agency’s obligation to convey the Property to Developer upon Close of Escrow.

2.10 Progress Reports. Commencing two (2) months from the Effective Date and not later than the tenth (10th) day of every other month thereafter until Completion of the Project, Developer shall submit to Agency a written progress report advising Agency on progress made in the performance of the predevelopment tasks, development and construction of the Project, and any pre-sales of residential units within Project, in such form and with such detail as Agency may reasonably require (“**Progress Reports**”). Prior to the Commencement of Construction, Developer shall include in the Progress Reports evidence that all Project Financing has been secured by Developer, and other information reasonably requested by Agency.

ARTICLE 3 AGENCY PREDISPOSITION ACTIONS

3.1 Overview. This **Article 3** sets forth various actions that Agency shall seek diligently and in good faith to perform and achieve in order for Agency to convey the Property to Developer in accordance with **Article 4**. Performance and achievement of the actions set forth in this **Article 3** constitute conditions precedent to Developer’s obligation to Close. As conditions precedent to Developer’s obligation to Close, the conditions set forth in this **Article 3** must first be met unless such times are extended in writing by Developer in its sole and absolute discretion. Only Developer can waive satisfaction of the conditions set forth in this **Article 3**. Additional conditions precedent to Developer’s obligation to Close are set forth in **Section 4.6.2**. Agency must have satisfied (or Developer must have so waived) every condition in this **Article 3** by not later than the Drop Dead Date, or else Developer may terminate this Agreement pursuant to **Section 10.2**.

3.2 Environmental Review for Additional Project Approvals. Following the Effective Date, and subject to the provisions of **Section 2.3**, Agency, at Developer’s sole cost and expense, shall use diligent good faith efforts to complete, or to cause City to complete, as applicable, any environmental review of any Additional Project Approvals as may be required pursuant to CEQA and/or other Applicable Law. Developer acknowledges and agrees that any such environmental review process will involve preparation and consideration of additional information as well as consideration of input from interested organizations and individuals; that approval or disapproval of any Additional Project Approvals following completion of the environmental review process is within the sole, complete, unfettered and absolute discretion of City and/or Agency without limitation by or consideration of the terms of this Agreement; and that Agency and City make no representation regarding the ability or willingness of City and/or Agency to approve any Additional Project Approvals at the conclusion of the environmental review process required by CEQA and/or other Applicable Law or regarding the imposition of any mitigation measures as conditions of any approval that may be imposed on any Additional Project Approvals. In addition,

Developer acknowledges and agrees that any required Additional Project Approvals by any other local, state or federal agency may require additional environmental review, and that any approval by Agency and/or City shall not bind any other local, state or federal agency to approve any Additional Project Approvals or to impose mitigation measures which are consistent with the terms of this Agreement or with the terms of any mitigation measures required by City and/or Agency pursuant to City's and/or Agency's environmental review.

3.3 Cooperation in Seeking Additional Project Approvals. Subject to Developer's compliance with **Article 2**, Agency shall help facilitate and cooperate with Developer, within Agency's reasonable authority and at Developer's cost, in seeking any Additional Project Approvals from City. Without limiting the preceding sentence, the Parties acknowledge that, as of the Effective Date, Developer is targeting to obtain the Discretionary Additional Project Approvals within one (1) year after Developer's submittal to City of complete applications therefor. Notwithstanding the preceding provisions of this **Section 3.3** or any other provision herein to the contrary, nothing in this Agreement shall constitute, or be deemed to constitute, any representation, warranty or guaranty by Agency or City of the issuance or timing of any Additional Project Approvals.

ARTICLE 4 DISPOSITION OF PROPERTY

4.1 Sale and Purchase. Upon and subject to the terms, covenants and conditions set forth in this **Article 4** and elsewhere in this Agreement, Agency agrees to sell and convey to Developer, and Developer agrees to purchase and accept from Agency, the Property. The Parties acknowledge that the 33433 Report determined that the Purchase Price, as designated herein, is less than the appraised fair market value of the Property but consistent with the fair reuse value of the Property.

4.2 Purchase Price. The purchase price for the Property shall be Four Million Two Hundred Thousand Dollars (\$4,200,000) ("**Purchase Price**"), payable as follows:

4.2.1 Nonrefundable ERNA Deposit. Prior to the Effective Date, and pursuant to the ERNA, Developer deposited into Escrow for payment to Agency, and Escrow Agent released and paid over to Agency, the ERNA Deposit of Two Hundred Thousand Dollars (\$200,000). The ERNA Deposit is and shall be nonrefundable to Developer under any circumstances whatsoever. The ERNA Deposit may be used by Agency at any time and for any purpose with respect to the Property, including but not limited to helping to defray any costs and expenses incurred by Agency in connection with the negotiation, preparation or implementation of this Agreement and/or development of the Property. The amount of the ERNA Deposit shall be applied against the Purchase Price at Closing. The ERNA Deposit is not part of liquidated damages under **Section 10.5**.

4.2.2 Additional Deposit. Not later than five (5) business days after the Effective Date, Developer shall deposit the Additional Deposit of One Hundred Fifty Thousand Dollars (\$150,000) into Escrow pursuant to **Section 2.2**. Upon receipt, the Additional Deposit shall be promptly released and paid over by Escrow Agent to Agency. The Additional Deposit shall be credited against the Purchase Price at Closing. If this Agreement terminates prior to

Closing pursuant to **Section 10.2** or by reason of an Agency Event of Default, the Additional Deposit shall be refunded by Agency to Developer in accordance with the applicable provisions of **Article 10**.

4.2.3 Balance of Funding at Closing. The Purchase Price, plus all other amounts required from Developer pursuant to **Section 4.4.1.1** in order to consummate the Closing in accordance herewith, less the Deposits, shall be deposited into Escrow by Developer in cash or other immediately available funds, for payment to Agency at Closing.

4.2.4 Independent Consideration. Not later than five (5) business days after the Effective Date, Developer shall deliver to Escrow Agent the sum of One Hundred Dollars (\$100) (the "**Independent Consideration**"). The Independent Consideration shall constitute independent and separate consideration paid by Developer for the rights extended to Developer under this Agreement. The Independent Consideration shall be promptly disbursed by Escrow Holder to Agency. Developer and Agency agree that the Independent Consideration: (a) shall not be part of the Deposit or the Purchase Price; (b) shall be independent of any other consideration paid by Developer to Agency under this Agreement; (c) shall be deemed to be fully earned by Agency upon the date of this Agreement; (d) shall not be refundable to Developer; and (e) shall not be applied against the Purchase Price at Closing.

4.3 Escrow.

4.3.1 Opening of Escrow. To accomplish the conveyance of the Property from Agency to Developer pursuant to this Agreement, Agency and Developer shall, promptly following execution of this Agreement, establish an escrow with Escrow Holder (the "**Escrow**").

4.3.2 Close of Escrow. Escrow for the conveyance of the Property hereunder shall close ("**Close**", "**Close of Escrow**" or "**Closing**") on a date (the "**Closing Date**") mutually acceptable to Agency and Developer within thirty (30) days after the Closing Conditions Satisfaction Date, but in no event later than **January 6, 2018** (the "**Outside Closing Date**"). If Closing does not occur on or before the Outside Closing Date through no fault of Developer or Agency, then this Agreement may be terminated by Agency or Developer pursuant to **Section 10.2**; provided, however, that the Outside Closing Date may be extended by mutual written agreement of Agency and Developer, each in its sole discretion. For purposes of this Agreement, "**Close**", "**Close of Escrow**" or "**Closing**" shall mean the date when all of the actions set forth in **Section 4.5.2** with respect to the Escrow shall have been completed in accordance with this Agreement.

4.3.3 Costs of Escrow. In connection with the Close of Escrow, Developer shall pay: (a) the premium costs of Developer's Title Policy, including the cost of any endorsements required by Developer; (b) all document preparation and recording fees and charges, (c) all Escrow Holder fees and other costs of Escrow, (d) all County and City transfer taxes and fees, (e) Developer's share of prorations pursuant to **Section 4.8**, and (f) any additional Closing costs approved by Developer. In connection with the Close of Escrow, Agency shall pay Agency's share of prorations pursuant to **Section 4.8**.

4.4 Delivery of Closing Documents and Funds.

4.4.1 Deliveries by Developer. At least two (2) business days before the Closing, Developer shall deposit into Escrow the following items (“**Developer Closing Funds and Documents**”):

4.4.1.1 cash or other immediately available funds in an amount necessary to consummate the Closing in accordance herewith, including the Purchase Price (less the Deposits), the premiums for Developer’s Title Policy and Developer’s share of the costs of Escrow and prorations as set forth in **Sections 4.3.3** and **4.8**; provided, however, that with respect to all or any portion of the Purchase Price for which Developer’s lender or other source of funding therefor pursuant to the Approved Final Financing Plan (other than a Developer Affiliate) does not permit prior funding within the time period set forth in **Section 4.4.1** above, the Purchase Price or such portion thereof shall be deposited into Escrow not later than the Closing Date;

4.4.1.2 one (1) original duly executed and acknowledged counterpart of the Regulatory Agreement and Declaration of Restrictive Covenants for Miraflores Housing Development Community (Market Rate Residential) between Agency (or Agency’s successor or designee) and Developer, substantially in the form of **Exhibit 4.4.1.2** attached hereto and otherwise satisfactory to Agency (the “**Agency Regulatory Agreement**”);

4.4.1.3 one (1) original duly executed and acknowledged counterpart of the Notice of Affordability Restrictions on Transfer of Property substantially in the form of **Exhibit 4.4.1.3** attached hereto and otherwise satisfactory to Agency (the “**Notice of Affordability Restrictions**”);

4.4.1.4 one (1) original duly executed and acknowledged counterpart of the Grant Deed of the Property from Agency to Developer substantially in the form of **Exhibit 4.4.1.4** attached hereto and otherwise satisfactory to Agency (the “**Agency Grant Deed**”);

4.4.1.5 one (1) original duly executed and acknowledged counterpart of the Assumption of Cell Site Access Easement Agreement;

4.4.1.6 one (1) original duly executed Assignment of Developer Agreements, Plans and Approvals (if not previously executed by Developer and delivered to Agency);

4.4.1.7 one (1) original duly executed Preliminary Change of Ownership Report for the Property;

4.4.1.8 one (1) duly executed certificate of Developer reaffirming the truth and accuracy, as of the Closing Date, of all representations and warranties of Developer hereunder, substantially in the form of **Exhibit 4.4.1.8** attached hereto and otherwise satisfactory to Agency (the “**Developer Date-Down Certificate**”); and

4.4.1.9 Developer shall duly execute, acknowledge, seal and deliver and otherwise provide appropriate resolutions, documentation, authorizations, and such further

assurances, instruments, and documents as Agency or Escrow Holder may reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

4.4.2 Deliveries by Agency. At least two (2) business days before the Closing, Agency shall deposit into Escrow the following items (“**Agency Closing Funds and Documents**”):

4.4.2.1 funds in an amount sufficient to pay Agency’s share of prorations as set forth in **Section 4.8**;

4.4.2.2 one (1) original duly executed and acknowledged counterpart of the Agency Regulatory Agreement;

4.4.2.3 one (1) original duly executed and acknowledged counterpart of the Notice of Affordability Restrictions;

4.4.2.4 one (1) original duly executed and acknowledged counterpart of the Agency Grant Deed;

4.4.2.5 one (1) original duly executed and acknowledged counterpart of the Assumption of Cell Site Access Easement Agreement;

4.4.2.6 one (1) duly executed non-foreign certification for the Property in accordance with the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended;

4.4.2.7 one (1) duly executed California Form 593-W Certificate for the Property or comparable non-foreign person affidavit;

4.4.2.8 one (1) duly executed certificate of Agency reaffirming the truth and accuracy, as of the Closing Date, of all representations and warranties of Agency hereunder, substantially in the form of **Exhibit 4.4.2.8** attached hereto (the “**Agency Date-Down Certificate**”); and

4.4.2.9 Agency shall duly execute, acknowledge, seal and deliver and otherwise provide appropriate resolutions, documentation, authorizations, and such further assurances, instruments, and documents as Developer or Escrow Holder may reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

4.5 Additional Escrow Provisions.

4.5.1 Escrow Instructions. This Agreement constitutes the joint escrow instructions of Agency and Developer with respect to the conveyances of the Property to Developer, and the Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement in accordance therewith. If, in the opinion of either Party, it is necessary or convenient in order to accomplish the Closing, such party may provide supplemental

escrow instructions; provided that if there is any inconsistency between this Agreement and the supplemental escrow instructions, then the provisions of this Agreement shall control.

4.5.2 Actions by Escrow Agent. On the Closing Date, provided both the Developer Closing Conditions and Agency Closing Conditions have been fulfilled or waived in writing by Developer and Agency, as applicable, Escrow Agent shall undertake and perform the following acts in the following order:

4.5.2.1 pay and charge Developer for Escrow costs, charges, and costs as provided in **Sections 4.3.3** and **4.8**;

4.5.2.2 record the Agency Regulatory Agreement;

4.5.2.3 record the Notice of Affordability Restrictions;

4.5.2.4 record the Agency Grant Deed and obtain conformed copies thereof for delivery to Developer and Agency;

4.5.2.5 record the Assumption of Cell Site Access Easement Agreement;

4.5.2.6 record any other recordable documents delivered into Escrow and required hereunder to be recorded at Closing;

4.5.2.7 prepare and file with all appropriate governmental or taxing authorities uniform settlement statements and closing statements, if any such forms are provided for or required by law;

4.5.2.8 obtain and issue Developer's Title Policy and do all such other actions necessary to fulfill its Escrow obligations under this Agreement;

4.5.2.9 deliver to Developer:

(a) conformed copies of the recorded Agency Grant Deed, Agency Regulatory Agreement, Notice of Affordability Restrictions, Assumption of Cell Site Access Easement Agreement and each other document recorded or filed in connection with the Close of Escrow;

(b) the original Developer's Title Policy;

(c) an original counterpart of the Assignment of Developer Agreements, Plans and Approvals (if applicable) and each other unrecorded document received by Escrow Holder hereunder;

(d) the original executed Agency Date-Down Certificate; and

(e) Developer's final settlement statement; and

4.5.2.10 deliver to Agency:

(a) conformed copies of the recorded Agency Grant Deed, Agency Regulatory Agreement, Notice of Affordability Restrictions, Assumption of Cell Site Access Easement Agreement and each other document recorded or filed in connection with the Close of Escrow;

(b) a copy of Developer's Title Policy;

(c) the original executed Developer Date-Down Certificate; (iv) an original counterpart of the Assignment of Developer Agreements, Plans and Approvals (if applicable) and each other unrecorded document received by Escrow Holder hereunder;

(d) the balance of the Purchase Price; and

(e) Agency's final settlement statement.

4.6 Closing Conditions.

4.6.1 Agency Closing Conditions. Agency's obligations to proceed with the Closing and to sell, transfer and convey the Property to Developer hereunder are conditioned upon the satisfaction or written waiver by Agency, in its sole and absolute discretion, of all of the following conditions precedent ("**Agency Closing Conditions**"), which are solely for the benefit of Agency:

4.6.1.1 Conditions in Article 2. All conditions precedent to Agency's obligation to convey the Property at the Closing as set forth in **Article 2** and elsewhere in this Agreement shall have been satisfied or waived in writing by Agency in its sole and absolute discretion.

4.6.1.2 Authorizing Resolution. Developer shall have provided Agency with a certified copy of a duly adopted resolution(s) approving and authorizing its execution, by the signatory below, of this Agreement and all instruments required to be executed and delivered by Developer pursuant thereto, and approving the transactions contemplated by this Agreement.

4.6.1.3 Formation Documents. Developer shall have delivered to Agency a copy of each of the following: (i) its articles of organization or incorporation, as applicable, and operating agreement or bylaws, as applicable; and (ii) a certificate of good standing (and, to the extent applicable, a certificate of qualification to transact business in California) from the Secretary of State with respect to Developer and the Completion Guarantor.

4.6.1.4 Recorded Memorandum. The Memorandum of DDA shall have been recorded against the Property.

4.6.1.5 Developer Closing Funds and Documents. Developer shall have duly executed and delivered to Escrow Holder all Developer Closing Funds and Documents.

4.6.1.6 Conventional Construction Loan Closing; Agency Option Agreement. The Conventional Construction Loan Closing with respect to the Site Improvement

Phase and the first Vertical Improvement Phase (or if there are no Construction Phases, then with respect to the Project) shall be in a position to occur concurrently with the Closing in accordance with the Approved Final Financing Plan and commitments therefor and for the Conventional Construction Loan for all subsequent Vertical Improvement Phases (including the Historic Resources Work) shall have been previously delivered to Agency. However, Agency, in its sole and absolute discretion, may waive this Agency Closing Condition with respect to the Conventional Construction Loan Closing for the Site Improvement Phase and the first Vertical Improvement Phase if: (a) the Conventional Construction Loan is substantially ready to close in accordance with the Approved Final Financing Plan and commitments therefor previously delivered to Agency, meaning substantially all documents for that purpose have been submitted to Escrow prior to the Closing Date and there are no conditions remaining to the initial draw-down of funds thereunder, other than the Closing and other customary construction loan disbursement conditions set forth in such documents; (b) the closing for the Conventional Construction Loan shall occur not more than forty-five (45) days after the Closing Date; and (c) prior to the Closing, Developer and Agency have entered into an option agreement substantially in the form of **Exhibit 4.6.1.6-A** attached hereto and otherwise satisfactory to Agency (the “**Agency Option Agreement**”) for Agency to re-acquire the Property as set forth therein if the Conventional Construction Loan has not closed within forty-five (45) days after the Closing Date. As a further condition to any such waiver by Agency, Developer shall duly execute and deliver to Agency a recordable form of memorandum of the Agency Option Agreement substantially in the form of **Exhibit 4.6.1.6-B** attached hereto and otherwise satisfactory to Agency (“**Memorandum of Agency Option Agreement**”) which Agency, in its sole discretion, may either record against the Property on the Closing Date or anytime thereafter if the Conventional Construction Loan does not close within the above referenced forty-five (45)-day period. Prior to the Conventional Construction Loan Closing, Agency shall sign and deliver in recordable form a quitclaim deed substantially in the form of **Exhibit 4.6.1.6-C** attached hereto or such other document as may be reasonably required by Developer to evidence the termination of the Agency Option Agreement, which shall be recorded concurrently with the Conventional Construction Loan Closing (the “**Termination of Agency Option Agreement**”).

4.6.1.7 Approval of Developer Financing Plan. Agency shall have approved the Approved Final Financing Plan for the Project as provided in **Section 2.4**.

4.6.1.8 Evidence of Availability of Funds. Agency shall have received and accepted the Evidence of Availability of Funds as provided in **Section 2.4**.

4.6.1.9 Project Financing. All conditions precedent to Project Financing Closing for Developer’s acquisition of the Property and, subject to **Section 4.6.1.6**, for construction of the Site Improvement Phase and the first Vertical Improvement Phase, as set forth in the Approved Final Financing Plan, have been met with the exception of any recording of documents and the payment of any necessary fees by Developer.

4.6.1.10 Additional Project Approvals. Developer shall have obtained: (i) all Discretionary Additional Project Approvals necessary for construction of the Project and the applicable time periods within which to challenge, either administratively or judicially, such Discretionary Additional Project Approvals shall have expired without the filing (or if filed, there has been a favorable resolution) of any such administrative or judicial challenge; and (ii) the

issuance of a Site Improvement Permit for the Site Improvements and a Building Permit for the first Vertical Improvement Phase shall be subject only to payment of necessary fees.

4.6.1.11 Construction Contracts. Developer shall have furnished Agency a copy of the executed Prime Construction Contract between Developer and the Prime Contractor or, as applicable, copies of executed Prime Subcontracts.

4.6.1.12 Initial Project Performance and Payment Security. Developer or the Prime Contractor shall have delivered to Agency the Initial Project Performance and Payment Security.

4.6.1.13 First Source Hiring Agreement. Developer shall have delivered to Agency Developer's executed original counterpart of the First Source Hiring Agreement.

4.6.1.14 Developer Insurance. Developer shall have furnished Agency with evidence of the insurance coverages meeting the requirements set forth in **Section 6.8**.

4.6.1.15 DOF Approval. DOF shall have issued to Agency required DOF approvals, if any, with respect to this Agreement and/or the transactions contemplated hereunder.

4.6.1.16 CPCFA Approval. CPCFA shall have provided any written approval of the conveyance of the Property hereunder as may be required under the CPCFA Regulatory Agreement.

4.6.1.17 No Developer Event of Default. No Developer Event of Default shall then exist or, with the mere passage of time, will exist hereunder.

Notwithstanding any provision herein to the contrary, and without limiting any available rights and remedies of Agency for a Developer Event of Default, if all Agency Closing Conditions have not been satisfied (for any reason) or waived in writing by Agency by the Drop Dead Date, Agency may terminate this Agreement pursuant to the applicable provisions of **Article 10**.

4.6.2 Developer Closing Conditions. Developer's obligations to proceed with the Closing and to acquire and accept the Property from Agency hereunder are conditioned upon the satisfaction or written waiver by Developer, in its sole and absolute discretion, of all of the following conditions precedent ("**Developer Closing Conditions**"), which are solely for the benefit of Developer:

4.6.2.1 Conditions in Article 3. All conditions precedent to Developer's obligation to acquire the Property at the Closing as set forth in **Article 3** and elsewhere in this Agreement shall have been satisfied or waived in writing by Developer in its sole and absolute discretion.

4.6.2.2 Project Financing. All conditions precedent to Project Financing Closing for Developer's acquisition of the Property and, subject to **Section 4.6.1.6**, for construction of the Site Improvement Phase and the first Vertical Improvement Phase, as set forth in the Approved Final Financing Plan, have been met with the exception of any recording of documents and the payment of any necessary fees by Developer.

4.6.2.3 Agency Closing Funds and Documents. Agency shall have duly executed and delivered to Escrow Holder all Agency Closing Funds and Documents.

4.6.2.4 Developer's Title Policy. Developer shall have received from Title Company assurances acceptable to Developer that Title Company will issue Developer's Title Policy to Developer at Closing.

4.6.2.5 DOF Approval. DOF shall have issued to Agency required DOF approvals, if any, with respect to this Agreement and/or the transactions contemplated hereunder.

4.6.2.6 CPCFA Approval. CPCFA shall have provided any written approval of the conveyance of the Property hereunder as may be required under the CPCFA Regulatory Agreement.

4.6.2.7 No Agency Event of Default. No Agency Event of Default shall then exist or, with the mere passage of time, will exist hereunder.

4.6.2.8 Additional Project Approvals. Developer shall have obtained: (i) all Discretionary Additional Project Approvals necessary for construction of the Project and the applicable time periods within which to challenge, either administratively or judicially, such Discretionary Additional Project Approvals shall have expired without the filing (or if filed, there has been a favorable resolution) of any such administrative or judicial challenge; and (ii) the issuance of a Site Improvement Permit for the Site Improvements and a Building Permit for the first Vertical Improvement Phase shall be subject only to payment of necessary fees.

Notwithstanding any provision herein to the contrary, and without limiting any available rights and remedies of Agency for a Developer Event of Default, if all Developer Closing Conditions have not been satisfied (for any reason) or waived in writing by Developer by the Drop Dead Date, Developer may terminate this Agreement pursuant to the applicable provisions of **Article 10**.

4.6.3 Closing Conditions Satisfaction Date. The date on which all Agency Closing Conditions and Developer Closing Conditions (collectively, the "**Closing Conditions**") have been satisfied or waived in accordance herewith is referred to herein as the "**Closing Conditions Satisfaction Date**."

4.7 Title.

4.7.1 Conveyance and Condition of Title. At Closing, Agency shall convey title to the Property to Developer by grant deed substantially in the form of **Exhibit 4.4.1.4** attached hereto (the "**Agency Grant Deed**") free and clear of all liens, encumbrances, and rights of occupancy and possession, except the following (collectively, the "**Permitted Exceptions**"):

4.7.1.1 all exceptions indicated in the Preliminary Report prepared by Title Company, Order No. 1117016948-JM, Amended, dated June 29, 2016, a copy of which is attached hereto as **Exhibit 4.7.1.1** (the "**Title Report**");

4.7.1.2 this Agreement and the Memorandum of DDA;

4.7.1.3 the Redevelopment Plan;

4.7.1.4 the Cell Site Access Easement, Cell Site Access Easement Agreement, and Assumption of Cell Site Access Easement Agreement;

4.7.1.5 the Memorandum of Agency Option Agreement (if applicable);

4.7.1.6 any lien for current non-delinquent taxes and assessments or taxes and assessments accruing subsequent to the Closing Date;

4.7.1.7 all matters that would be disclosed by a current physical inspection or a survey of the Property, or that are actually known to Developer;

4.7.1.8 any exceptions, conditions or other matters created or caused by or consented to in writing by Developer; and

4.7.1.9 any other liens, easements, encumbrances, covenants, conditions and restrictions or other matters of record approved or specifically waived in writing by Developer.

4.7.2 Covenant Against Further Encumbrance. Prior to Closing, and other than Permitted Exceptions, Agency shall not alienate, lien, encumber, transfer, option, lease, assign, sell, grant any right of occupancy or possession, transfer or convey its interest or any portion of its interest in the Property, or any portion thereof, or enter into any agreement to do so (each a “**Further Encumbrance**”), unless such Further Encumbrance is specifically approved in writing by Developer.

4.7.3 Developer’s Title Policy. At Closing, Title Company shall issue to Developer, at Developer’s cost, an ALTA owner’s policy of title insurance, with endorsements reasonably required by Developer, with a policy amount satisfactory to Developer in its reasonable discretion, insuring Developer’s ownership interest in the Property subject only to the Permitted Exceptions (“**Developer’s Title Policy**”).

4.8 Prorations. Ad valorem taxes and assessments levied, assessed or imposed on the Property for any period prior to the Closing, if any, shall be paid by Agency. Ad valorem taxes and assessments levied, assessed or imposed on the Property, the Project or any other improvements on the Property, for the period from and after the Closing shall be paid by Developer. The costs of any utility services for the Property, if any, shall be prorated between Agency and Developer as of the Closing Date. Notwithstanding the above, the Parties acknowledge that no property taxes or assessments should have accrued on the Property while owned by Agency due to the fact that it is in public ownership; however to the extent that property taxes or assessments have been assessed prior to the Closing, it shall be Developer’s responsibility to pay its prorated share of such taxes (with respect to the period from and after the Closing) or resolve the issue, at its sole cost, with the State Board of Equalization.

4.9 Real Estate Commissions. Agency, on the one hand, and Developer, on the other hand, represents and warrants that it has not had any contact or dealings regarding the Property, or any communication in connection with the subject matter of the transactions contemplated by this Agreement, through any real estate broker or other person who can claim a right to a commission

or finder's fee. Agency and Developer further represent and warrant that it has not entered into any agreement, and has no obligation, to pay any such commission or finder's fee. If a commission or finder's fee is claimed through either Party in connection with the transactions contemplated by this Agreement, then the Party through whom the commission or finder's fee is claimed shall indemnify, defend (with counsel reasonably acceptable to the indemnified Party) and hold the other Party harmless from and against any such Claim. The provisions of this **Section 4.9** shall survive expiration of the Term or other termination of this Agreement and shall remain in full force and effect.

4.10 "AS IS" Conveyance.

4.10.1 Agency Materials. Agency represents and warrants, to the best of Agency's knowledge, as of the Effective Date, and Developer acknowledges, that Agency has furnished Developer with copies of or provided Developer with access to the following, to the extent within Agency's possession or reasonable control: (a) the CEQA and NEPA review documents with respect to the Existing Project Approvals (collectively, the "**Existing CEQA/NEPA Documents**"); (b) reports and other information relating to the environmental condition and environmental remediation of the Property (including the presence thereon of Hazardous Materials) as listed on **Exhibit 4.10.1** attached hereto (collectively referred to as "**Certain Environmental Reports**"); and (c) any and all unrecorded leases, service contracts, easements, licenses and/or other unrecorded agreements with third parties affecting the Property that would, if not terminated prior to Closing, extend beyond the Closing Date (collectively, the "**Unrecorded Agreements**"). To the best of Agency's knowledge, the Existing CEQA/NEPA Documents, the Certain Environmental Reports, and the DTSC environmental documents regarding the Property accessible at http://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=70000104 (collectively, the "**Environmental Reports**") constitute all environmental reports regarding Hazardous Materials conditions within the property that will comprise the Miraflores Community Development and within Agency's possession or reasonable control or availability as of the Effective Date. The Environmental Reports and Unrecorded Agreements are herein collectively referred to as the "**Agency Materials.**" Neither Agency nor City makes any representation or warranty as to the completeness or accuracy of any Agency Materials. Subject to **Section 4.6.1.16**, Developer shall have no obligation to assume any obligations under any Unrecorded Agreements. If this Agreement terminates for any reason prior to Close of Escrow, Developer shall promptly return to Agency all Agency Materials (and any copies thereof made by Developer).

4.10.2 Disclosure. Developer acknowledges and agrees that, by means of the Environmental Reports, Agency has complied with the notice and disclosure requirements of California Health and Safety Code Section 25359.7(a) with respect to the Property.

4.10.3 Full Opportunity. Developer acknowledges, agrees, represents, and warrants that, prior to Closing, Developer has been given a full opportunity to obtain, review, inspect and investigate each and every aspect of the Property, either independently or through agents of Developer's choosing, including without limitation the following:

- (a) The size and dimensions of the Property.

(b) The availability and adequacy of water, sewage, fire protection, and any utilities serving the Property.

(c) All matters relating to title including extent and conditions of title to the Property, taxes, assessments, and liens.

(d) All Applicable Law, limitations on title, and other restrictions or requirements concerning or affecting the Property, including zoning, use permit requirements and building codes.

(e) Natural hazards, including flood plain issues, currently or potentially concerning or affecting the Property.

(f) The physical, legal, economic and environmental condition and aspects of the Property, and all other matters concerning the conditions, use or sale of the Property, including any permits, licenses, agreements, and liens, zoning reports, engineers' reports and studies and similar information relating to the Property. Such examination of the condition of the Property has included examinations for the presence or absence of Hazardous Materials, and review of all Phase I environmental assessments and Environmental Reports and information submitted at any time to DTSC, deemed necessary or desirable by Developer (but, without limiting or otherwise affecting the provisions of **Section 4.10.5** or any other provisions of **Section 4.10**, has not included physical testing for Hazardous Materials by Developer pursuant to any Phase II environmental assessment).

(g) Any easements and/or access rights concerning or affecting the Property.

(h) Any contracts and other documents or agreements concerning or affecting the Property.

(i) All other matters of material significance concerning or affecting the Property.

4.10.4 Access to Property.

4.10.4.1 Temporary Right of Entry. Agency hereby grants to Developer a temporary right to enter the entire Property prior to Closing, Monday through Friday between 7:00 a.m. and 7:00 p.m. and on weekends and holidays between 8:00 a.m. and 6:00 p.m. and upon and subject to the provisions of this **Section 4.10.4.1**, to perform any Property review activities which require access to the Property (the "**Temporary Right of Entry**"). Developer shall only be entitled to exercise the Temporary Right of Entry if Developer then has in full force and effect and has delivered to Agency certificates of coverage for all insurance required hereunder pursuant to **Section 6.8**. Developer shall notify Agency in writing at least twenty four (24) hours prior to entering the Property to undertake any investigations, inspections, studies or tests upon the Property ("**Developer Property Testing**"), which notice shall indicate with specificity the scope and timeframe of any such proposed Developer Property Testing. Prior to the Closing Date, and subject to the provisions of this **Section 4.10.4.1**, Developer shall deliver or make available to Agency for its review and copying any Phase I environmental review report or other environmental

reports prepared by or on behalf of Developer relating to the condition of the Property (including the presence thereon of Hazardous Materials); provided, however that such reports shall be provided without any representation or warranty, including without limitation as to the accuracy or completeness of the contents of such reports. In light of the Environmental Reports, Developer shall not undertake any Phase II environmental review or testing of the Property. Developer shall also allow Agency and City representatives to be present at any time Developer enters upon the Property. Developer agrees, on behalf of its employees, agents, and contractors to cause all work to comply with all Applicable Law. Nothing in this **Section 4.10.4.1** shall be deemed to create any right of Developer to terminate or condition its obligation to proceed with the Closing based upon the results of any Developer Property Testing or to render the conveyance hereunder of the Property in any condition other than AS-IS Condition as set forth in **Section 4.10.5**.

4.10.4.2 Indemnity. Developer hereby releases and shall indemnify, defend, protect and hold Agency and other Agency Parties and City and other City Parties harmless from and against any and all Claims directly or indirectly arising out of or resulting from the acts, omissions, negligence or willful misconduct of Developer or any Developer Party under or in connection with the exercise of the Temporary Right of Entry or any Developer Property Testing. The foregoing indemnity (but not the duty to defend) shall not apply to the extent any such Claims are finally determined to have arisen solely from the active negligence or willful misconduct of any Agency Parties prior to Closing. The foregoing indemnity also shall not apply to the extent the DTSC Certificate of Completion or any environmental approval by DTSC was obtained by Agency by fraud, negligent or intentional nondisclosure, or misrepresentation. In addition, in the event Developer or any Developer Party causes any damage to any portion of the Property, Developer shall promptly restore the Property as nearly as possible to the physical condition existing immediately prior to Developer's entry onto the Property. Developer shall at all times to keep the Property free and clear of all liens, encumbrances, and clouds upon title that could or do result or arise from the exercise of the Temporary Right of Entry. The provisions of this **Section 4.10.4.2** shall survive the Closing and expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

4.10.5 "AS IS" CONVEYANCE. Developer acknowledges and agrees that Agency is selling and conveying, and Developer is acquiring and accepting, the Property on an "AS IS" "WITH ALL FAULTS" basis, condition, and state of repair, inclusive of any and all faults and defects, legal, physical, or economic, whether known or unknown ("**AS-IS Condition**") and neither Agency nor City shall be responsible for any demolition, site remediation, preparation or monitoring, removal, construction or installation of any improvements, soil conditions, or removing any subsurface obstruction or correcting any subsurface condition. Developer hereby releases and shall indemnify, defend, protect and hold Agency and other Agency Parties and City and other City Parties harmless from and against any and all Claims which may arise or result directly or indirectly from or in connection with the presence, removal, storage or release of any Hazardous Materials on the Property (including those identified in the Environmental Reports). Developer further acknowledges and agrees that, except as expressly set forth in **Section 4.10.6** ("DTSC Matters") or **Section 9.1** ("Agency Representations and Warranties"), neither Agency (or any other Agency Party) nor City (or any other City Party) have made or make any representation or warranty, express or implied, regarding the Property or the Project, including but not limited to its physical or environmental condition or fitness or suitability for any particular use or purpose, and Developer is relying solely upon its own expertise as a developer of projects similar to the

Project and its own independent investigation of the Property to determine its acceptability to Developer for Developer's ownership and anticipated development and use thereof. Agency and City shall have no responsibility for the suitability of the Property for the Project, and if the conditions of the Property are not entirely suitable for the Project, then Developer shall be solely responsible for putting the Property in a condition suitable for the Project. Developer hereby waives any right of reimbursement or indemnification from Agency or other Agency Parties or City or other City Parties for Developer's costs related to any physical conditions on the Property or the correction thereof, including without limitation those costs which may arise from the presence, removal, storage or release of any Hazardous Materials on the Property (including those identified in the Environmental Reports).

In furtherance of the intentions set forth herein, Developer acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

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

Developer hereby waives and relinquishes any right or benefit which it has or may have under Section 1542 of the California Civil Code or any similar provision of the statutory or non-statutory law of any other applicable jurisdiction to the full extent that it may lawfully waive all such rights and benefits pertaining to the subject matter of this **Section 4.10.5**. The foregoing release shall not apply to the extent the DTSC Certificate of Completion or any environmental approval by DTSC was obtained by Agency by fraud, negligent or intentional nondisclosure, or misrepresentation. The foregoing release, indemnity and waiver provisions of this **Section 4.10.5** shall survive the Closing and expiration of the Term or other termination of this Agreement and shall remain in full force and effect.

4.10.6 DTSC Matters. The parties acknowledge that the Property is the subject of a Voluntary Cleanup Agreement with DTSC, dated October 31, 2005, as amended (“VCA”), and that the soil on the Property has been remediated to the satisfaction of DTSC as evidenced by the DTSC Certificate of Completion, and DTSC has advised Agency in the DTSC Certificate of Completion that the immunity provisions of California Health & Safety Code section 33459.3 with respect to the releases addressed by the Remedial Action Plan (“RAP”) for the Property are in effect. The parties further acknowledge that Agency is subject to the Post-remediation Groundwater Monitoring Work Plan, dated May 21, 2015, as provided under the VCA. Agency represents, to the best of Agency's knowledge, that there are no releases of Hazardous Materials or existing soil or groundwater contamination at the Property other than the information in the public record or described in the VCA, the RAP, and/or other information delivered by Agency (including but not limited to the Environmental Reports) to Developer.

4.10.7 Agency Disclaimers. Developer acknowledges and agrees that except as expressly set forth in this Agreement: (i) neither Agency or any other Agency Party, nor City or any other City Party, has made any representations, warranties, or promises to Developer, or to anyone acting for or on behalf of Developer, concerning the condition of the Property or any other aspect of the Property; (ii) the condition of the Property has been independently evaluated by

Developer prior to the Closing; and (iii) any information including any engineering reports, architectural reports, feasibility reports, marketing reports, title reports, soils reports, environmental reports, analyses or data or other similar reports, analyses, data or information of whatever type or kind, if any, which Developer has received or may hereafter receive from Agency or any other Agency Party, or City or any other City Party, were and are furnished without warranty of any kind and on the express condition that Developer has made its own independent verification of the accuracy, reliability and completeness of such information and that Developer will not rely on any of the foregoing.

4.10.8 Developer's Waiver. In the event that, prior to Close of Escrow, Developer becomes aware of any event or condition, other than an intentional breach or willful misconduct on the part of Agency, that would constitute a breach or default by Agency or a failure of any condition precedent to Developer's obligations hereunder, but Developer proceeds with the Close of Escrow notwithstanding such event or condition, then Developer shall be deemed to have waived and released any claim or cause of action arising there from, and Agency shall have no liability by reason of any such breach, default or condition.

4.10.9 Survival. The provisions of this **Section 4.10** shall survive the Close of Escrow.

ARTICLE 5 CONSTRUCTION OF PROJECT

5.1 Obligation to Construct Project. Following the Close of Escrow, Developer shall Commence Construction and Complete Construction of each Construction Phase and the Project (notwithstanding the existence or timing of any Construction Phases), in accordance with the Approved Final Plans, the Project Approvals and all other Governing Documents, within the times established therefor in the Schedule of Performance, subject to Force Majeure Delay.

5.2 Costs of Construction. Developer shall bear all costs of design, construction and development of the Project.

5.3 Progress Reports. Until Completion of Construction of the Project, Developer shall provide to Agency the Progress Reports pursuant to **Section 2.10**.

5.4 Change in Construction of Project.

5.4.1 If, during the course of construction of the Project, Developer desires to make any material change in the Project from the Approved Final Plans, Developer shall submit the proposed change to Agency in writing for Agency approval in writing. Without limitation, any change which would change the number of Residential Units, or would materially alter the external appearance of the Project (including but not limited to any color change), or which is expected to result in an individual change of Fifty Thousand Dollars (\$50,000) or more in the cost of construction of the Project or result in a series of changes in the Project cumulatively of One Hundred Thousand Dollars (\$100,000) or more in the cost of construction of the Project, shall be deemed a material change. Provided that Developer has first received all required Project Approvals for the proposed change to the Project, Agency shall limit its review of the proposed

change to (i) consistency with all timing requirements for the Project set forth in the Schedule of Performance, (ii) consistency with the overall Project, and (iii) consistency with the Project Approvals. No change which is required solely for compliance with building codes or other government health and safety regulation, and which change is substantially consistent with the Approved Final Plans, shall be deemed a material change hereunder. Developer may make non-material changes to the Project without Agency consent; provided, however, that Agency's determination as to the material or non-material nature of any proposed or actual change to the Project shall be final and binding.

5.4.2 If Agency rejects a change to the Project proposed by Developer and requiring Agency approval under **Section 5.4.1**, Agency shall provide Developer with specific reasons therefore in writing. Unless a proposed change to the Project is approved in writing by Agency within fifteen (15) days after submittal, it shall be deemed disapproved by Agency and the Approved Final Plans shall continue in full force and effect and govern construction of the Project.

5.4.3 A change necessitated by an emergency construction situation, such as unexpected soils condition, and substantially consistent with the Approved Final Plans, may be made by Developer without Agency consent, provided Developer provides Agency with immediate notification of such change by electronic mail or fax, including the reason for, the details and cost of such emergency change.

5.4.4 Subject to the preceding provisions of this **Section 5.4**, during the course of construction of the Project, Developer shall have the right to amend the Prime Construction Contract or the Prime Subcontracts, as applicable, in order to implement any change to the Project described in the preceding provisions of this **Section 5.4**.

5.5 Compliance with Applicable Laws.

5.5.1 Generally. Developer shall cause all work performed in connection with construction of the Project to be performed in compliance with: (a) all Applicable Laws, and (b) 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.

5.5.2 Permits. The work on each Construction Phase and the Project shall proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and Developer shall be responsible, at its cost, for the procurement and maintenance thereof, as may be required of Developer and all entities engaged in work on the Project. Without limitation, Developer shall secure or cause to be secured any and all demolition, grading and Building Permits and approvals which may be required by City and/or any other governmental agency having jurisdiction, including permits for the demolition and removal of any temporary structures or improvements on the Property and right of entry or encroachment permits for performance of required public right-of-way and other off-site improvements. Agency staff will work cooperatively with Developer to assist in coordinating the expeditious processing and consideration of such permits and approvals. However, the execution of this Agreement does not constitute the granting of, or a commitment to grant or obtain, any permits or approvals required by City and/or any other government agency.

5.5.3 Local Business and Local Hire. The Project shall be subject to Richmond Municipal Code's ("RMC") local business and local hire requirements, including the City's Business Opportunity Ordinance (RMC, Chapter 2.50) and Local Employment Program Ordinance (RMC, Chapter 2.56) (the "**Local Business and Local Hire Requirements**"). Pursuant to RMC Chapter 2.56, and prior to the Closing, Developer shall also enter into a First Source Hiring Agreement with Agency, substantially in the form of **Exhibit 5.5.3** attached hereto and otherwise satisfactory to Agency (the "**First Source Hiring Agreement**"). Developer shall provide Agency with written acknowledgement by the Prime Contractor of the requirements of RMC Section 2.56.030(c), which code section shall be reproduced in full within the written acknowledgement. The written acknowledgement shall also include an express commitment by the Prime Contractor to use its best efforts to see that all of its sub-contractors comply with all Local Business and Local Hire Requirements.

5.5.4 Equal Opportunity. Developer covenants for itself (during Developer's Ownership Period with respect to the Project) and its successors and assigns, that during the construction and operation of the Project, there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the hiring, firing, promoting or demoting of any person engaged in the construction work. Developer (during Developer's Ownership Period with respect to the Project) and its contractors, employees and agents shall comply with all Applicable Laws, including all equal opportunity and fair employment law and regulations applicable to the Project, and including all applicable provisions of the City's Nondiscrimination Clauses in City Contracts Ordinance (RMC, Chapter 2.28), including RMC Section 2.28.030, obligating every contractor or subcontractor under a contract or subcontract with City for public work or for goods or for services to refrain from discriminatory employment or subcontracting practices on the basis of race, color, sex, sexual orientation, religious creed, national origin, ancestry or disability of any employee, any applicant for employment or any potential subcontractor.

5.5.5 Prevailing/Living Wages.

5.5.5.1 Payment of Prevailing/Living Wages. Developer shall and shall cause the Prime Contractor and each other contractor and subcontractor to pay prevailing wages and living wages in the construction of the Project as those wages are determined pursuant to Labor Code Sections 1720 *et seq.* and implementing regulations of the Department of Industrial Relations and the City of Richmond's Living Wage Ordinance (RMC Chapter 2.60) (the "**City Living Wage Ordinance**"). Developer shall also comply with the other applicable provisions of Labor Code Sections 1720 *et seq.*, implementing regulations of the Department of Industrial Relations and RMC Chapter 2.60. Developer shall and shall cause the Prime Contractor and each other contractor and subcontractor to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to Labor Code Sections 1720 *et seq.* and implementing regulations of the Department of Industrial Relations. Copies of the currently applicable current per diem prevailing wages are available from the California Department of Industrial Relations website, www.dir.ca.gov. During the construction of the Project, Developer shall or shall cause the Prime Contractor to post at the Property the applicable prevailing rates of per diem wages. Developer shall indemnify, hold harmless and defend (with counsel reasonably acceptable to Agency and City) Agency, and other Agency Parties, and City, and other City Parties, from and against any and all Claims arising out of the failure of Developer, the Prime Contractor

and each other contractor or subcontractor to pay living wages pursuant to the RMC Chapter 2.60 and prevailing wages as determined pursuant to Labor Code Section 1720 *et seq.* and implementing regulations or to comply with the other applicable provisions of Labor Code Sections 1720 *et seq.* and implementing regulations of the Department of Industrial Relations in connection with construction or any other work undertaken in connection with the Project.

5.5.5.2 Maintenance of Payroll Records. Developer shall and shall cause the Prime Contractor and each other contractor and subcontractor to maintain accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker and others employed on the Project. Each payroll record shall contain or be verified by a written declaration made under penalty of perjury, stating both of the following: (1) the information contained in the payroll record is true and correct, and (2) the employer has complied with the requirements of Labor Code Section 1771 (prevailing wage provisions), Section 1811 (eight (8)-hour day, forty (40)-hour week provisions), and Section 1815 (overtime compensation) for any work performed by his or her employees on the Project. Developer shall and shall require the Prime Contractor and each other contractor and subcontractor to provide certified payroll records to Agency each week, no later than ten (10) days after the end of a weekly pay period. Payroll records shall be maintained and made available in accordance with Labor Code Section 1776. In addition, Developer shall and shall require the Prime Contractor and each other contractor and subcontractor promptly to deliver to Agency, upon request, documents verifying compliance with the Living Wage Ordinance, which include documents which evidence that each affected employee has been notified regarding the wages required to be paid pursuant to the Living Wage Ordinance. Notice of living wages shall also be posted at the Project construction site.

5.5.6 Sales and Use Tax Allocations.

5.5.6.1 Sub-Permit. Developer shall, in accordance with the special tax allocation procedures set forth in attached Exhibit 5.5.6.1 (the “**Special Tax Allocation Procedures**”), require that the Prime Contractor and each other contractor and subcontractor exercise their option to obtain a Board of Equalization sub-permit for the jobsite and allocate all eligible use tax payments to City. Prior to beginning the construction of the Project, Developer shall require that the Prime Contractor and each other contractor and subcontractor provide City with either a copy of the sub-permit or a statement that use tax does not apply to their portion of the job.

5.5.6.2 Direct Payment. Developer shall, in accordance with the Special Tax Allocation Procedures, review the direct payment process established under California Revenue and Taxation Code 7051.3 and, if eligible, use the permit so that the local share of its use tax payments is allocated to City. Developer shall provide City with either a copy of the direct payment permit or a statement certifying ineligibility to qualify for the permit.

5.5.7 Senate Bill 854 Requirements.

5.5.7.1 Contractor Registration. If and to the extent applicable, Developer shall abide by SB 854 providing: (a) no contractor or subcontractor may be qualified to

bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the California Public Contract Code, or engage in the performance of any contract for public work, unless currently registered with DIR and qualified to perform public work pursuant to California Labor Code Section 1725.5 (California Government Code Section 1771.1(a)); (b) no contractor or subcontractor may be awarded a public works contract unless registered with the DIR to perform public work pursuant to Labor Code Section 1725.5 (Government Code Section 1771.1(b)); and (c) work performed on the project is subject to compliance monitoring and enforcement by DIR (Government Code Section 1771.4).

5.5.7.2 Job Site Notices. Developer shall or shall cause the Prime Contractor to post at the job site notices in compliance with Title I California Code of Regulations, Section 16451.

5.6 Project Performance, Payment and Warranty Security.

5.6.1 Initial Project Performance and Payment Security. At least five (5) business days prior to Closing, Developer shall furnish, or cause the Prime Contractor to furnish, to Agency faithful performance and labor and material bonds or other form of security acceptable to Agency securing Completion of Construction of the Site Improvement Phase and the first Vertical Improvement Phase of the Project, each in an amount not less than one hundred percent (100%) of the respective scheduled cost of construction of the applicable Construction Phase as set forth in the Approved Construction Budget, in form authorized by the Subdivision Map Act and otherwise approved by Agency (which approval shall not be unreasonably withheld, conditioned or delayed) and which also meet the requirements of Developer's lenders or other institutions providing Project Financing, and naming the Agency and City as co-obligees. The bonds and/or other forms of security required to be furnished pursuant to this **Section 5.6.1** are herein collectively referred to as the "**Initial Project Performance and Payment Security.**" In the event that the Project does not actually include any Construction Phases, the Initial Project Performance and Payment Security shall be in an amount not less than one hundred percent (100%) of the scheduled cost of construction of the Project as set forth in the Approved Construction Budget and otherwise shall meet the same requirements as set forth above in this **Section 5.6.1**, and, in such event, all references herein to "Initial Project Performance and Payment Security" shall mean and refer to the Initial Project Performance and Payment Security for the Project and not for any Construction Phase.

5.6.2 Subsequent Project Performance and Payment Security. Prior to City issuance of a Building Permit for each subsequent Vertical Improvement Phase, Developer shall furnish, or cause the Prime Contractor to furnish, to Agency bonds or other form of security acceptable to Agency securing Completion of Construction of each subsequent Vertical Improvement Phase, each in an amount not less than one hundred percent (100%) of the scheduled cost of construction of such subsequent Vertical Improvement Phase as set forth in the Approved Construction Budget, in form authorized by the Subdivision Map Act and otherwise approved by Agency (which approval shall not be unreasonably withheld, conditioned or delayed) and which also meet the requirements of Developer's lenders or other institutions providing Project Financing, and naming the Agency and City as co-obligees. The bonds and/or other forms of security required to be furnished pursuant to this **Section 5.6.2** are herein collectively referred to as the "**Subsequent Project Performance and Payment Security.**"

5.6.3 Site Improvement Warranty Security. Prior to City issuance of a Site Improvement Permit, Developer shall furnish to Agency a warranty bond or other form of security acceptable to Agency guaranteeing and warranting the Site Improvements, for a period of one (1) year following Completion of Construction of the Site Improvements (the “**Site Improvement Warranty Period**”), against any defective work or labor done or defective materials furnished to the Project, in an amount not less than fifty percent (50%) of the amount of the portion of the Initial Project Performance and Payment Security attributable to the Site Improvements, in form authorized by the Subdivision Map Act and otherwise approved by Agency (which approval shall not be unreasonably withheld, conditioned or delayed) and which also meets the requirements of Developer’s lenders or other institutions providing Project Financing, and naming the Agency and City as co-obligees (the “**Site Improvement Warranty Security**”). Notwithstanding any provision in this Agreement or the Site Improvement Warranty Security to the contrary, the Site Improvement Warranty Security shall survive Developer’s Ownership Period for the Site Improvement Warranty Period.

5.6.4 Affordable Units Warranty Security. Prior to issuance of any Certificate of Completion with respect to any portion of the Project containing any Affordable Units, Developer shall furnish to Agency a warranty bond or other form of security acceptable to Agency guaranteeing and warranting the Affordable Units, for a period of one (1) year following issuance of such Certificate of Completion (the “**Affordable Units Warranty Period**”), against any defective work or labor done or defective materials furnished to the Project, in an amount not less than fifty percent (50%) of the amount of the portion of the Initial Project Performance and Payment Security and/or Subsequent Project Performance and Payment Security, as applicable, attributable to the Affordable Units, in form authorized by the Subdivision Map Act and otherwise approved by Agency (which approval shall not be unreasonably withheld, conditioned or delayed) and which also meets the requirements of Developer’s lenders or other institutions providing Project Financing, and naming the Agency and City as co-obligees (the “**Affordable Units Warranty Security**”). Notwithstanding any provision in this Agreement or the Affordable Units Warranty Security to the contrary, the Affordable Units Warranty Security shall survive Developer’s Ownership Period for the Affordable Units Warranty Period.

5.7 Insurance Requirements. Prior to the Commencement of Construction of the Project and until Completion of Construction of the Project, Developer shall procure and maintain all insurance required pursuant to **Section 6.8**.

5.8 Entry by Agency. Developer shall permit Agency and City, through its respective council members, directors, officers, agents, or employees, at all reasonable times to enter into the Project (i) to inspect the work of construction to determine that the same is in conformity with the requirements of this Agreement, and (ii), following Completion of Construction, to inspect the Project to determine that the same is in conformance with the requirements of this Agreement. Agency shall not cause any delay in the construction or operation of the Project by its entry pursuant to this **Section 5.8**. Developer acknowledges that neither Agency nor City is under any obligation to supervise, inspect, or inform Developer of the progress of, construction or operation of the Project and Developer shall not rely upon Agency or City therefore. Any inspection by Agency or City during construction of the Project is entirely for its purposes in determining whether Developer is in compliance with this Agreement and is not for the purpose of determining or informing Developer of the quality or suitability of construction. Developer shall rely entirely

upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, the Prime Contractor, each other contractor and subcontractor, and material suppliers. The rights granted to Agency and City pursuant to this **Section 5.8** are in addition to any rights of entry and inspection City may have in exercising its municipal regulatory authority. Notwithstanding any provision of this Agreement to the contrary, Developer shall not bear any liability to Agency or City for injury to any Agency or City employee or representative occurring during the exercise of Agency's or City's right of entry pursuant to this **Section 5.8**, unless such injury arises out of the negligence or willful misconduct of Developer or any of its contractors or subcontractors.

5.9 Certificates of Completion.

5.9.1 Promptly after Completion of Construction of each of (i) a particular Construction Phase and (ii) the Project in accordance with those provisions of this Agreement relating solely to the obligations of Developer to construct the Project (including the dates for Commencing and Completing Construction of such Construction Phase and the Project, as applicable), Agency shall issue to Developer an instrument so certifying, substantially in the form attached hereto as **Exhibit 5.9.1-A** and **Exhibit 5.9.1-B** (such certificate with respect to a particular Construction Phase being herein referred to as a "**Certificate of Construction Phase Completion**" and such certificate of completion with respect to the Project being herein referred to as a "**Certificate of Project Completion**"). Agency shall not unreasonably withhold issuance of a Certificate of Completion. The issuance of a Certificate of Completion shall constitute a conclusive determination that the covenants in this Agreement with respect to the obligations of Developer, its permitted successors and assigns, to construct the particular Construction Phase and the Project, as applicable (including the dates for the Commencement and Completion of Construction thereof), have been met. In the event that Agency does not issue a Certificate of Completion, Agency shall, upon Developer's written request, specify in writing to Developer the reasons therefor and the steps that must be taken by Developer in order for Agency to issue such Certificate of Completion.

5.9.2 Each Certificate of Completion shall be in such form as will enable it to be recorded among the Official Records of Contra Costa County. This certification and determination shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a deed of trust securing money loaned to finance the Project or any part thereof and shall not be deemed a notice of completion under the California Civil Code.

5.10 Liens and Stop Notices.

5.10.1 Developer shall not allow to be placed on the Property or any part thereof or any adjacent property any lien or stop notice arising from any work or materials performed or provided or alleged to have been performed or provided by the Prime Contractor or any other Developer's contractors, subcontractors, agents or representatives. If any such claim of lien or stop notice is given or recorded, Developer shall within thirty (30) days of such recording or service: (i) pay and discharge the same; or (ii) effect the release thereof by recording and delivering to Agency a surety bond in sufficient form and amount.

5.10.2 Provided the requirements set forth in **Section 5.10.1** have not been met by Developer, Agency shall have the right, but not the obligation, upon written notice to Developer, to satisfy any such liens or stop notices. In such event, Developer shall be liable for and Agency shall be entitled to reimbursement by Developer for such paid lien or satisfied stop notice.

5.11 Completion Guarantor Update. On or before July 1 of each year until Completion of the Project, Developer shall cause each Completion Guarantor to provide to Agency reasonable and customary written evidence from one or more bona fide financial institutions, substantiating that the Completion Guarantor then has on hand (in the aggregate) at least Five Million Dollars (\$5,000,000.00) in cash or cash equivalent assets.

5.12 Survival. The provisions of this **Article 5** shall survive the Close of Escrow and shall continue during the Term.

ARTICLE 6 CONTINUING DEVELOPER OBLIGATIONS

6.1 Applicability. Developer shall comply with the provisions of this **Article 6** throughout the Term, unless a different period of applicability is specified in a particular section of this **Article 6**.

6.2 Use of Property and Project. Developer shall use, or cause to be used, the Property and the Project during Developer's Ownership Period with respect to the Project, consistent with the Governing Documents, the Approved Final Plans, this Agreement and Applicable Law.

6.3 Management of Project.

6.3.1 At all times following the Closing Date and until Completion of the Project and termination of Developer's Ownership Period with respect to the Project, all portions of the Project shall be managed by Developer in accordance with the applicable provisions of this **Article 6**.

6.3.2 Upon Completion of the Project, Developer shall cause management of the Project to be assumed by the HOA, effective upon termination of Developer's Ownership Period with respect to the Project, in accordance with the terms and conditions of the Final HOA Documents (as defined below), the applicable provisions of this **Article 6** and all other applicable provisions of the Governing Documents; provided, however, that nothing herein shall relieve or release Developer from any of its obligations under the Project Warranty Security, which obligations shall survive Developer's Ownership Period and the Term for the Project Warranty Periods.

6.3.2.1 Not later than the date of closing for the first sale by Developer of a Residential Unit to the anticipated occupant thereof or any earlier date required by Applicable Law, Developer shall establish, in accordance with applicable provisions of the Davis Stirling Act and all other Applicable Law, one or more homeowners associations (each, an "HOA") to own (as applicable), perform and fund the ongoing management, accounting, operation, insurance,

maintenance, repair and replacement of any and all private roadways, landscaping, recreation and open space, and other common areas and facilities within the Project, including common area as defined in the Davis Stirling Act (collectively, “**Project Common Area**”). Unless otherwise mutually agreed upon in writing by the Parties following the Effective Date, the Project Common Area shall not include the Greenbelt or any Offsite Historic Resources; provided, however, that Developer and Agency may include in any such agreement (or in the Final HOA Documents), provisions to annex into the Project Common Area landscaped areas within the Greenbelt (but not other Improvements located on the Greenbelt) and to provide for the maintenance of such Greenbelt landscaping by the HOA, to be funded by HOA dues and/or real property assessments by a special district formed by City. The proposed final plan for establishment, governance and funding of each HOA and the proposed final governing documents of each HOA (collectively, the “**Proposed Final HOA Documents**”), including articles, bylaws, covenants, conditions and restrictions, and initial budget, including the proposed final revenue and expense projections for the HOA (the “**Proposed Final HOA Revenue and Expense Projections**”), shall be timely submitted by Developer to the California Bureau of Real Estate (“**BRE**”) for approval in accordance with Applicable Law, for approval by the BRE prior to the closing for the first sale by Developer of a Residential Unit. The Proposed Final HOA Documents submitted by Developer to BRE shall be consistent with the Agency Approved Preliminary HOA Documents and also shall be subject to the review and written approval of the Agency Executive Director and Agency Counsel, which shall not be unreasonably withheld, conditioned or delayed. Not later than fifteen (15) business days prior to Developer’s submittal of the Proposed Final HOA Documents to BRE, Developer shall submit the Proposed Final HOA Documents to Agency. If Agency neither approves or disapproves in writing the Proposed Final HOA Documents within ten (10) business days after the Proposed Final HOA Documents are submitted to Agency, Developer may then submit to Agency written notice to Agency indicating that if Agency fails to act on the request for approval of such Proposed Final HOA Documents within five (5) business days following Agency’s receipt of such notice, then such Proposed Final HOA Documents shall be deemed approved by Agency pursuant to the provisions of this **Section 6.3.2.1**. If Developer so submits to Agency such written notice and if Agency fails to act on the request for approval of such Proposed Final HOA Documents within five (5) business days following Agency’s receipt of such notice, then such Proposed Final HOA Documents shall be deemed approved by Agency pursuant to the provisions of this **Section 6.3.2.1**. The Proposed Final HOA Documents as approved by BRE and approved or deemed approved by Agency are referred to herein as the “**Final HOA Documents**.” Any review and approval or deemed approval by Agency of the Preliminary HOA Documents or the Proposed Final HOA Documents shall not constitute or be deemed to constitute any representation, warranty, assurance or guaranty of the legal, financial or other adequacy of any of the HOA Documents, for which Developer and the HOA shall remain fully responsible. The HOA Documents shall name Agency and City as express third party beneficiaries with the right (but not any obligation) to independently enforce the HOA’s obligations to maintain the Project Common Area and other improvements thereunder. Developer hereby agrees to the inclusion of the requirements of this **Section 6.3.2.1** as a condition of any Additional Project Approvals granted by City and, whether or not actually included as a condition of approval in the Additional Project Approvals, such requirements shall be deemed included as such a condition of approval for all purposes under this Agreement.

6.4 Maintenance.

6.4.1 Obligation and Standard of Maintenance.

6.4.1.1 Prior to Project Completion. At all times following the Closing Date and prior to Completion of the Project and termination of Developer's Ownership Period with respect to the Project, Developer, at its sole cost, shall maintain all portions of the Property in a neat, orderly, safe and secure condition to the greatest practicable extent (including but not limited to abatement and removal of weeds and rubbish and maintenance of perimeter fencing) and in accordance with industry health and safety standards and Applicable Law.

6.4.1.2 Following Project Completion. From and following Completion of the Project and (i) until termination of Developer's Ownership Period with respect to the Project Common Area, Developer shall well maintain the Project Common Area, (ii) until termination of Developer's Ownership Period and the Affordable Units Warranty Period with respect to the Affordable Units, Developer shall well maintain the Affordable Units, and (iii) until termination of Developer's Ownership Period with respect to the other Residential Units, Developer shall well maintain such Residential Units, in each instance including external and internal appearance and functionality of such portions of the Project to a standard not less than the standard evidenced by other projects in the San Francisco Bay area comparable to the Project. Without limiting the preceding provisions of this **Section 6.4.1.2**, Developer shall maintain such portions of the Project in good repair and working order, and in a neat, clean, orderly and secure condition, including the walkways, driveways, alleyways and landscaping, and from time to time make all necessary and proper repairs, renewals, and replacements.

6.4.2 Violation of Maintenance Obligations. In the event that, at any time prior to the termination of Developer's maintenance obligations under **Sections 6.4.1.1** and **6.4.1.2**, Agency is made aware of a condition in contravention or violation of Developer's maintenance obligations thereunder (although Agency shall have no duty of inspection or other obligation to investigate the condition of the Project), then Agency shall notify Developer in writing of such condition, and Developer shall have thirty (30) days from receipt of such notice to cure said condition, subject to Force Majeure Delay. Notwithstanding the preceding sentence, the failure of Agency to provide any such notice shall not be deemed a breach of this Agreement by Agency and shall not relieve or release Developer from any of its maintenance or other obligations under this Agreement or Applicable Law. In the event Developer fails to cure such condition within such thirty (30)-day period, subject to Force Majeure Delay, such failure shall constitute a Developer Event of Default and Agency and/or City shall have the right, but not any obligation and without derogation of their rights and remedies under the Site Improvement Warranty Security and the Affordable Units Warranty Security, to perform all acts necessary to cure such condition, and/or to take any other recourse at law or in equity Agency and/or City may then have, and Developer shall pay to Agency and/or City, within ten (10) days of written demand therefor, all costs incurred by Agency and/or City in taking any of the foregoing actions. The Parties further agree that, without limitation, the foregoing rights and remedies conferred upon Agency and/or City include the right to establish and enforce a lien or other encumbrance against the Property and the Project, but such lien shall be subject to liens and encumbrances previously recorded in accordance with this Agreement.

6.5 Taxes and Assessments. Developer shall pay any and all real (including possessory interest) and personal property taxes, assessments and charges assessed, imposed or levied upon the Property and/or the Project and/or any personal property used in connection therewith or any interest in any of the foregoing attributable to Developer's Ownership Period (collectively, "Project Taxes"), and any and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed or imposed against Developer, or payable by Developer, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property or the Project, and shall remove any levy or attachment made on the Property or the Project within thirty (30) days following the date of such levy or attachment. Developer shall have the right, however, to contest in good faith, any Project Taxes. In the event Developer exercises its right to contest any Project Taxes, Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest. Developer's payment obligations under this Section 6.5 shall apply only to amounts attributable to Developer's Ownership Period.

6.6 Non-Discrimination.

6.6.1 Basic Requirement. Developer covenants for itself, its successors and assigns that there shall be no unlawful discrimination against or segregation of a person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the sale, lease, sublease transfer, use, occupancy, tenure or enjoyment of the Project nor shall Developer or any person claiming under or through Developer (including the HOA) 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 Project.

6.6.2 Mandatory Language in All Subsequent Deeds, Leases and Contracts. All deeds, leases or contracts made or entered into by Developer, its successors or assigns, as to any portion of the Property shall contain therein the following language:

6.6.2.1 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).”

6.6.2.2 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).”

6.6.2.3 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).”

6.7 Hazardous Materials.

6.7.1 Certain Covenants. Developer hereby covenants for itself, its successors and assigns at all times from and after the Closing, the following:

6.7.1.1 No Hazardous Materials Activities. Developer shall not cause or permit the Property or the Project, or any part thereof, to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any Hazardous Materials except as may be incidental to the ordinary business and residential activities of tenants of the Project and is in compliance with all applicable Hazardous Materials Laws.

6.7.1.2 Hazardous Materials Laws Compliance. Developer shall comply with and keep and maintain the Property and the Project in compliance with, and shall not cause or permit the Property or the Project, or any part thereof, to be in violation of, any Hazardous Materials Laws.

6.7.1.3 Notices. Upon receiving actual knowledge of the same, Developer shall immediately notify Agency and City in writing of the following matters: (A) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Developer, the Property or the Project pursuant to any applicable Hazardous Materials Laws; (B) any and all Claims made or threatened by any third party against Developer, the Property or the Project 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**”); or (C) the presence of any Hazardous Materials in, on or under the Property or the Project. Developer shall be deemed to have notified Agency and City under this **Section 6.7.1.3** if and to the extent such information was included within the Environmental Reports or the condition or circumstance described in (A), (B) or (C) of this **Section 6.7.1.3** existed when the Property was owned by Agency or is expressly addressed in the VCA or RAP. Agency and/or City shall have the right to join and participate in, as a party if they so elect, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and Developer shall pay to Agency and City their reasonable attorney’s fees (including in-house attorneys’ fees) incurred in connection therewith.

6.7.1.4 Remedial Action. Subject to any applicable provisions of the VCA, Developer shall immediately take, at Developer’s sole expense, all remedial action in response to the presence of any Hazardous Materials on, under, or about the Project required by

any Hazardous Materials Laws or any judgment, consent decree, settlement or compromise with respect to any Hazardous Materials Claims.

6.7.1.5 Inspection by Agency. Upon reasonable prior written notice to Developer, Agency, its employees and agents, may (but shall not be obligated to) from time to time enter and inspect the Property and the Project for the purpose of determining the existence, location, nature and magnitude of any past or present release or threatened release of any Hazardous Materials into, onto, beneath or from the Property and/or Developer's compliance with the provisions of this Agreement regarding Hazardous Materials.

6.7.2 Legal Effect of Section. Developer and Agency agree that:

6.7.2.1 This **Section 6.7** is intended as Agency's written request for information (and Developer's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5; and

6.7.2.2 Each covenant, representation and warranty in this **Section 6.7** (including and together with any indemnity applicable to a breach of any such covenant, representation and warranty) with respect to the environmental condition of the Property or the Project is intended by the Parties to be, and shall constitute, an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

6.7.3 Indemnity. Without limiting the applicability or extent of any other indemnity obligations of Developer set forth elsewhere in this Agreement, Developer covenants for itself, its successors and assigns to indemnify, protect, hold harmless and defend (by counsel reasonably acceptable to Agency and City) Agency and all other Agency Parties, City and all other City Parties, from and against any and all Claims directly or indirectly arising out of or attributable to, in whole or in part, any of the following:

(a) the failure of Developer or any other person or entity, from and after the Closing (other than, as applicable, Agency or any other Agency Parties, or City or any other City Parties), to comply with any Hazardous Materials Law relating in any way whatsoever to the use, handling, treatment, presence, release, threatened release, discharge, removal, storage, decontamination, cleanup, transportation or disposal of Hazardous Materials into, on, under or from the Property or the Project;

(b) the use, handling, treatment, presence, release, threatened release, discharge, removal, storage, decontamination, cleanup, transportation or disposal of Hazardous Materials into, on, under or from the Property or the Project; or

(c) any activity carried on or undertaken on or off the Project, subsequent to the Closing, and whether done so by Developer or any successor in title or any employees, agents, contractors or subcontractors of Developer or any successor in title, or any third persons at any time subsequent to the Closing occupying or present on the Property or the Project (other than, as applicable, Agency or any other Agency Parties, or City or any other City Parties), in connection with the use, handling, treatment, presence, release, threatened release, discharge, removal, storage, decontamination, cleanup, transportation or disposal of Hazardous Materials at any time located or present on or under the Property or the Project.

The foregoing indemnity obligations of Developer shall further apply to any residual contamination on or under the Property or the Project, 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 foregoing indemnity shall not apply to the extent the DTSC Certificate of Completion or any environmental approval by DTSC was obtained by Agency by fraud, negligent or intentional nondisclosure, or misrepresentation. The provisions of this **Section 6.7.3** shall survive the Closing and expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

6.8 Insurance Requirements.

6.8.1 Required Coverages. During Developer's Ownership Period with respect to the Project or such longer period specified in the Schedule of Insurance Requirements (as defined below), Developer, at its sole cost, shall procure and maintain in force with respect to the Property and the Project the insurance policies and coverages set forth in this **Section 6.8** and shall comply with all other insurance requirements set forth in this **Section 6.8**.

6.8.1.1 Property Insurance. If it is required in connection with any Conventional Construction Loan or other Project Loan, property insurance with respect to the completed Project, covering all risks of loss included in a "special form" or "all risk" insurance policy, and including coverage for earthquake (but only if it is required in connection with any Conventional Construction Loan or other Project Loan and if it is commercially available and affordable at a reasonable price and with a reasonable deductible) and flood, for one hundred percent (100%) of the replacement cost value thereof, with deductible, if any, acceptable to Agency, naming "Agency and/or Agency's designee and City and their successors and assigns" as a Loss Payee, as their interests may appear.

6.8.1.2 Liability and Other Insurance. Such policies of liability, builder's risk and other insurance with such coverages and amounts set forth in **Exhibit 6.8.1.2** attached hereto (the "**Schedule of Insurance Requirements**"). All references in the Schedule of Insurance Requirements to "City" shall be deemed to refer to "Agency and/or Agency's designee and City and their successors and assigns" and all references therein to "Contractor" shall be deemed to refer to "Developer."

6.8.2 Contractor Requirements. Developer shall cause the Prime Contractor and each other contractor and subcontractor performing work on the Project to maintain insurance meeting all applicable requirements set forth in the Schedule of Insurance Requirements.

6.8.3 General Requirements.

6.8.3.1 All policies of liability insurance required hereunder shall be written on an occurrence basis unless otherwise approved by Agency in its sole and absolute discretion and shall name Agency, City and their respective board members, council members, directors, officers, agents, and employees as additional insureds.

6.8.3.2 All policies of insurance shall be endorsed to provide thirty (30) days prior written notice of cancellation, reduction in coverage, or intent not to renew to the address established for notices to Agency pursuant to **Section 11.1**.

6.8.3.3 Not later than the Closing, and prior to initiating any work on the Project, and thereafter upon Agency's request at any time during the Term, Developer shall provide, or cause to be provided, to Agency certificates of insurance, in such form and with such insurers admitted in California and otherwise reasonably acceptable to Agency, evidencing compliance with the requirements of this **Section 6.8**.

6.9 Cooperation on Seniors Project. Developer shall use good faith best efforts to cooperate with the Seniors Project Developer, Agency and City to facilitate the construction and development of the Seniors Project, including but not limited to the consideration and implementation of opportunities for collaboration on the design, engineering and construction or installation of joint trenches and utilities and off-site improvements that may serve both the Project and the Seniors Project and the granting of any related access rights to accomplish any of the foregoing.

6.10 Relocation of Cell Site Access Easement. Developer acknowledges that, as of the Effective Date, there exists an easement, for the benefit of certain third parties, for access and utilities over a portion of the Property that serves a cell site tower site located on the Property near the northeastern corner of the Property (the "**Cell Site Access Easement**"). Pursuant to the terms and conditions of the Easement Agreement that created the Cell Site Access Easement, dated as of June 30, 2006 and entered into as of March 17, 2011, as amended by that certain First Amendment to Easement Agreement (Miraflores) dated November 3, 2015 (as amended, the "**Cell Site Access Easement Agreement**"), a Memorandum of which was recorded on January 11, 2012, as Instrument No. 20120006847 in the Official Records of Contra Costa County, the Cell Site Access Easement and the utilities located therein are to be relocated to a portion of the Property along the northerly side of the Property as generally depicted in the Cell Site Easement Agreement and to be more particularly depicted on any final subdivision map for the Project (the "**Cell Site Access Easement Relocation**"). A copy of the Cell Site Access Agreement has been provided to Developer. Effective upon and following the Closing, Developer, at its sole cost, shall assume and perform and pay all obligations of Agency under the Cell Site Access Easement Agreement with respect to the Cell Site Access Easement Relocation. To further evidence the assumption by Developer of such obligations, Developer agrees to duly execute and deliver to Agency at or before Closing, and consents to the recording of at Closing, an assignment and assumption of the Cell Site Access Agreement substantially in the form of **Exhibit 6.10** attached hereto and otherwise satisfactory to Agency (the "**Assumption of Cell Site Access Easement Agreement**").

6.11 Covenants Running with Land. The covenants and other provisions of this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of Agency and City, and their respective successors and assigns, and shall run with the land comprising the Property. Agency and City are deemed the beneficiaries of the covenants and other provisions of this Agreement for and in their own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit the covenants and other provisions of this Agreement have been provided. The covenants and other provisions of this Agreement shall run in favor of Agency and City

without regard to whether Agency or City has been, remains or is an owner of any land or interest in the Property or any other property within the Miraflores Community Development. Subject to the limitations on remedies set forth in **Article 10**, Agency and/or City shall have the right, upon a Developer Event of Default, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such Developer Event of Default to which it is entitled under the terms of this Agreement.

ARTICLE 7
ASSIGNMENT AND TRANSFERS

7.1 Definitions. As used in this **Article 7**, the term “**Transfer**” means:

7.1.1 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 Project, the Property or any part thereof or any interest therein or any contract or agreement to do any of the same; or

7.1.2 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 any ownership interest in Developer or any contract or agreement to do any of the same; or

7.1.3 Any change in Control of Developer; or

7.1.4 Any merger, consolidation, sale or lease of all or substantially all of the assets of Developer; or

7.1.5 The leasing of part or all of the Property or the improvements thereon; provided, however, that leases of any individual Residential Units (provided they are less than all Residential Units within the Project) by a Residential Unit Owner to tenant occupants shall not be deemed a “Transfer” for purposes of this **Article 7**.

7.2 Purpose of Restrictions on Transfer. This Agreement is entered into solely for the purpose of acquisition of the Property and development of the Project and its subsequent use in accordance with the terms hereof. Developer acknowledges that the qualifications and identity of Developer are of particular concern to Agency and City, in view of:

7.2.1 The importance of the development of the Property to the general welfare of the community;

7.2.2 The land acquisition assistance and other public aids that have been made available by law and by the government for the purpose of making such redevelopment possible;

7.2.3 The reliance by Agency and City upon the unique qualifications and ability of Developer to serve as the catalyst for development of the Property and upon the continuing interest which Developer will have in the Property to assure the quality of the use, operation and maintenance deemed critical by Agency and City in the development of the Property;

7.2.4 The fact that a change in ownership or control of the owner of the Property, 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 Developer or the degree thereof is for practical purposes a transfer or disposition of the Property;

7.2.5 The fact that the Property is not to be acquired or used for speculation, but only for development and disposition by Developer in accordance with the Agreement; and

7.2.6 The importance to the Agency, City and the community of the standards of use, operation and maintenance of the Property.

Developer further acknowledges that it is because of such qualifications and identity that Agency is entering into this Agreement with Developer and that Transfers are permitted only as expressly provided in this Agreement.

7.3 Restrictions on Transfers. The restrictions on Transfers set forth in this **Article 7** shall apply until Completion of the Project; provided, however, that any Transfers of Affordable Units shall continue to be governed and restricted by the Agency Regulatory Agreement and Notice of Affordability Restrictions in accordance with the terms thereof. Except as expressly permitted in this **Article 7**, Developer represents and agrees that Developer has not made or created, and will not make or create or suffer to be made or created, any Transfer (other than a Permitted Transfer), either voluntarily or by operation of law, without the prior written approval of Agency, which may be granted, withheld or conditioned in Agency's sole and absolute discretion. Any Transfer or attempted Transfer made in contravention of this **Article 7** shall be null and void and of no force or effect and shall be deemed to be a Developer Event of Default under this Agreement whether or not Developer knew of or participated in such Transfer.

7.4 Permitted Transfers. Notwithstanding the provisions of **Section 7.3**, the Transfers set forth below in this **Section 7.4** (each a "**Permitted Transfer**") shall be permitted and, subject to the provisions of this **Section 7.4**, are hereby approved by Agency:

7.4.1 Any Transfer creating a Permitted Security Interest pursuant to the Approved Financing Plan and **Section 8.1**.

7.4.2 Any Transfer directly resulting from the foreclosure of a Permitted Security Interest or Other Approved Security Interest or the granting of a deed in lieu of foreclosure of a Permitted Security Interest or Other Approved Security Interest, and any subsequent Transfer by the Holder thereof following such foreclosure or deed in lieu of foreclosure.

7.4.3 Any Transfer of an easement interest to utility providers to facilitate the delivery of utilities to the Project, or any dedication or conveyance of portions of the Property to the City or, if required by the Project Approvals, to any other governmental agency in connection with the Project.

7.4.4 Any Transfer of the Project Common Area to the HOA following the completion thereof.

7.4.5 Any Transfer of a Residential Unit by means of sale or lease to the anticipated or actual occupant thereof in accordance with the provisions of this Agreement.

7.4.6 Any Transfer of a Membership Interest in Developer and/or Developer Members, provided that, after giving effect to such Transfer, one or more Principals, individually or collectively, own or Control not less than fifty-one percent (51%) of the Membership Interests in Developer and/or Developer Members, as applicable.

7.4.7 Any Transfer to a Developer Affiliate, provided that, after giving effect to such Transfer, one or more Principals, individually or collectively, own and Control not less than fifty-one percent (51%) of the ownership and voting interests in such Developer Affiliate.

Developer shall give at least ten (10) days prior written notice to Agency of a Permitted Transfer; provided, however, that a failure by Developer to provide such notice shall not invalidate any Permitted Transfer. In addition, Agency shall be entitled to review such documentation as may be reasonably required by Agency to confirm the proposed assignment or transfer is a Permitted Transfer. The transferee of a Permitted Transfer, or any other Transfers approved in advance in writing by Agency under this **Article 7**, is herein referred to as a “**Permitted Transferee**.”

7.5 Other Transfers with Agency Consent. All proposed Transfers (other than Permitted Transfers), including any Transfer of all or any part of the market rate Residential Units following Completion thereof to a transferee other than the anticipated or actual occupants of such Residential Units, shall be subject to the provisions of this **Section 7.5**. Developer shall notify Agency of any proposed Transfer (excluding any Permitted Transfer) at least forty-five (45) days prior to the anticipated completion date for any such Transfer. Agency shall act on any proposed Transfer within fifteen (15) business days after receipt from Developer of a written request for approval of the proposed Transfer and/or any related Transfer Documents (as applicable), including such financial information and other documentation (which may include a proposed assignment and assumption agreement) which Agency, in its reasonable business judgment, determines is necessary to evaluate the proposed Transfer and the proposed transferee’s experience, reputation, qualifications and financial capacity (each a “**Request for Consent to Transfer**”). If Agency neither approves or disapproves in writing the Request for Consent to Transfer within such fifteen (15) business day period, the Request for Consent to Transfer shall be deemed disapproved by Agency as of the expiration of such fifteen (15) business day period.

7.6 Effect of Transfer. No Permitted Transfer or other Transfer pursuant to this Agreement shall relieve or release the transferor Developer from any of its obligations or liabilities under this Agreement, unless approved in writing by Agency in its sole and absolute discretion prior to such Transfer.

ARTICLE 8 SECURITY FINANCING AND RIGHTS OF HOLDERS

8.1 No Encumbrances Except for Project. Subject to the provisions of this **Article 8**, mortgages, deeds of trust, sale and lease-back, or any other appropriate form of security interest or conveyance required to secure Project Financing (“**Security Interest**”) are permitted if and to

the extent such Security Interest is solely and exclusively for the purpose of securing bona fide loans of funds to Developer to be used by Developer solely and exclusively for financing or refinancing the construction, reconstruction or rehabilitation of the Project and any other expenditures necessary and appropriate to develop, own and operate the Property in accordance with the Approved Final Financing Plan and other provisions of this Agreement, including without limitation, hard and soft costs, and Project carrying and financing costs, and Closing costs and fees related to such financing and refinancing (“**Permitted Security Interest**”). Developer shall notify Agency in writing in advance of any Security Interest, other than a Permitted Security Interest, proposed to be granted by Developer or otherwise attaching voluntarily or involuntarily to the Property or the Project or any portion thereof or interest therein. Developer shall not enter into any Security Interest, other than a Permitted Security Interest, without the prior written approval of Agency and shall promptly notify Agency of the creation or attachment of any Security Interest, other than a Permitted Security Interest. Developer shall provide Agency with a copy of the deed of trust or mortgage evidencing any Permitted Security Interest or other Security Interest approved by Agency hereunder (“**Other Approved Security Interest**”) within ten (10) days following its recording in the Official Records of the County Recorder; provided, however, that any failure by Developer to provide such document shall not affect any Security Interest, including without limitation the validity, priority of enforceability thereof.

8.2 Holder Not Obligated to Construct Project. The holder of any Permitted Security Interest or Other Approved Security Interest, including any such holder who obtains title to Developer’s interest in the Property or the Project or any portion thereof as a result of foreclosure proceedings or transfer in lieu of foreclosure (each, a “**Holder**”) shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion (unless the Holder is also the Completion Guarantor), unless the Holder expressly assumes such obligation by written notice to Agency or by written agreement with Agency. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Property or the Project or any portion thereof to any uses or to construct any Improvements thereon other than those uses and Improvements expressly and specifically authorized by this Agreement.

Whether or not a Holder elects to assume Developer’s obligation to construct such improvements, nothing in this Agreement shall be construed to permit such Holder to construct any Improvements other than the Improvements expressly and specifically authorized under this Agreement. If the Holder elects to assume Developer's obligation to construct the Project, the Holder shall not be bound by the Schedule of Performance, provided that, upon assuming such obligation, the Holder and Agency shall execute and append hereto a new mutually agreeable Schedule of Performance and the Holder shall complete the Project in accordance with such new Schedule of Performance.

8.3 Notice of Default to Holders and Right to Cure. Whenever Agency shall deliver any Agency Notice of Developer Default hereunder, Agency shall endeavor, concurrently, or as close thereto as reasonably practical, to deliver a copy of such Agency Notice of Developer Default to each Holder of record of any Permitted Security Interest or Other Approved Security Interest who has previously made a written request to Agency therefore. Each such Holder shall (insofar as the rights of Agency are concerned) have the right, at its option, to cure or remedy or commence to cure or remedy any such default within the same period available to Developer to do so hereunder, and to add the cost thereof to the debt and lien of its Permitted Security Interest or Other

Approved Security Interest. If such default shall be a default which can only be cured or remedied by such Holder upon obtaining possession of the Property or any portion thereof, the time to cure or remedy such default shall be tolled for so long as such Holder promptly commences and diligently prosecutes efforts to obtain possession through a receiver, foreclosure, deed in lieu of foreclosure or otherwise, but in no event shall this tolling period exceed one hundred twenty (120) days from the date of the applicable Agency Notice of Developer Default. In the event there is more than one such Holder, the right to cure or remedy a breach or default of Developer under this **Section 8.3** shall be exercised by the Holder first in priority or as the Holders may otherwise agree in writing among themselves (and provide written notice thereof to Agency), but there shall be only one exercise of such right to cure and remedy a breach or default of Developer under this **Section 8.3**.

8.3.1 Nothing contained in this Agreement shall be deemed to permit or authorize or obligate such Holder (except any such Holder that is also a Completion Guarantor) to undertake or continue the construction or completion of the Project (except such Holder shall be permitted to continue such construction to the extent necessary to conserve or protect the Project or construction already made) without first having expressly assumed Developer's obligations to Agency with respect to the Project by written agreement satisfactory to Agency and such Holder.

8.3.2 Any Holder (except any Holder that is also a Completion Guarantor) shall only be liable for or bound by Developer's obligations hereunder during the period that the Holder is in possession of such portion of the Property or the Project in which the Holder has an interest and, notwithstanding anything to the contrary contained in this Agreement, shall only be liable to the extent of its interest in such Property and the Project.

8.3.3 Any Holder properly completing a Construction Phase and/or the Project shall be entitled, upon written request made to Agency, to a Certificate of Completion from Agency with respect thereto.

8.4 Failure of Holder to Complete Development. In any case where one hundred eighty (180) days after the Holder has obtained possession of the Property (or any portion thereof) by foreclosure or deed in lieu of foreclosure or otherwise, the Holder of any Permitted Security Interest or Other Approved Security Interest has not exercised its option to construct, or if it has exercised the option to construct and has not proceeded diligently with construction (subject to Force Majeure Delay), then Agency, if it so elects, shall be entitled to the conveyance from the Holder of the Holder's interest in the Property upon payment to the Holder, in immediately available funds, of an amount equal to the sum of the following, provided that Agency tenders or delivers such funds to such Holder (which may be by means of an escrow established by Agency and the Holder for that purpose) within sixty (60) days after the end of such one hundred eighty (180)-day period:

8.4.1 The unpaid debt secured by the Permitted Security Interest or Other Approved Security Interest (not taking into account the amount of any credit bid made by the Holder at a foreclosure sale thereunder) ("**Permitted Security Interest Debt**") immediately prior to the time the Property became vested in the Holder;

8.4.2 All reasonable expenses incurred by the Holder with respect to the foreclosure or deed-in lieu of foreclosure of the Permitted Security Interest or Other Approved Security Interest;

8.4.3 The net expenses, if any (exclusive of general overhead), incurred by the Holder as a direct result of the subsequent ownership and management of the Property and the Project (net of rentals and other revenues received subsequent to the foreclosure or deed in lieu of foreclosure);

8.4.4 The costs of any Improvements to the Property made by such Holder and authorized by this Agreement; and

8.4.5 An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the Permitted Security Interest Debt and had the Permitted Security Interest Debt continued in existence in accordance with its terms to the date of payment by Agency.

8.5 Right of Agency to Cure Permitted Security Interest Default. In the event that (a) Developer has committed a breach or default under a Permitted Security Interest or Other Approved Security Interest prior to Completion of the Project, and (b) the Holder thereof has not exercised its option hereunder to complete the Project, then Agency shall have the right but not the obligation to cure the default prior to the completion of any foreclosure under the Permitted Security Interest or Other Approved Security Interest. In the event Agency elects to so cure (and cures) such default, Developer shall reimburse Agency for all costs and expenses incurred by Agency in curing such default. Also in such event, Developer hereby grants Agency a lien upon Developer's interest in the Property and the Project to the extent of such costs and expenses. Any such lien shall be subject and subordinate to the lien of any Permitted Security Interest or Other Approved Security Interest hereunder.

8.6 Right of Agency to Satisfy Other Liens. After the Closing and prior to the recordation of a Certificate of Project Completion hereunder and after Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the Property or any portion thereof (other than Permitted Security Interests or Other Approved Security Interests), Agency shall have the right but not the obligation to satisfy any such lien or encumbrance; provided, however, that nothing in this Agreement shall require Developer to pay or make provision for the payment of any tax, assessment, lien or charge only if and for so long as (a) Developer in good faith shall contest in writing, to the government agency or other entity imposing or levying the same, the validity or amount thereof, (b) such delay in payment shall not subject the Property or the Project or any portion thereof to the risk of forfeiture or sale, and (c) Developer shall, prior to the date such tax, assessment, lien or charge becomes delinquent, have provided to Agency or its nominee a bond or other form of security as may be reasonably required by Agency from time to time in order to ensure payment of such taxes, assessments, lien or charge and prevent any sale, foreclosure or forfeiture of the Property or the Project or any portion thereof by reason of such nonpayment.

8.7 Holder Requested Modifications. In the event a Holder of a Permitted Security Interest or Other Approved Security Interest, as a condition of providing Project Financing,

requests any modification of this Agreement in order to protect its interests in the Property or the Project under this Agreement or to satisfy its underwriting requirements, Agency shall consider such request in good faith consistent with the purpose and intent of this Agreement and the rights and obligations of the parties under this Agreement; provided, however, that Agency shall have no obligation to agree to any such modification and shall have no liability whatsoever for not agreeing to any such modification.

8.8 Holder as Completion Guarantor. Notwithstanding any provision herein to the contrary, the provisions of this **Article 8** shall not be deemed to limit, expand or modify the rights or obligations under the Completion Guaranty of any Holder that also is the Completion Guarantor, whose rights and obligations under the Completion Guaranty shall be governed solely by the provisions thereof and such provisions shall govern and control in the event of any conflict between such provisions and the provisions of this **Article 8**.

ARTICLE 9 REPRESENTATIONS AND WARRANTIES

9.1 Agency Representations and Warranties. Agency, in its capacity as seller of the Property and not in any regulatory capacity, hereby represents, warrants and covenants all of the following to Developer as of the Effective Date and the Closing Date, all of which shall survive the Close of Escrow and shall be subject to the provisions of **Section 4.10** and any actual knowledge of Developer prior to Close of Escrow (whether pursuant to **Section 4.10** or otherwise):

9.1.1 Authority. Agency has the capacity and full right, power and lawful authority to grant, sell and convey the Property and carry out the transactions as provided herein, and the execution, delivery and performance of this Agreement by Agency, has been fully authorized by all requisite actions on the part of Agency.

9.1.2 Valid Binding Agreements. This Agreement and the other Governing Documents and all other documents and instruments which have been executed and delivered by Agency pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered to Developer, and executed and delivered by Developer, constitute, legal, valid and binding obligations of Agency, enforceable against Agency in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium and other laws affecting creditors' rights, or by the application of equitable principles.

9.1.3 No Conflict. To the best of Agency's knowledge, Agency's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Agency is a party or by which it is bound.

9.1.4 Litigation. To the best of Agency's knowledge, and except as otherwise disclosed by the Agency Materials, there are no claims, causes of action or other litigation, arbitration or proceedings pending or threatened with respect to the ownership, operation or environmental condition of the Property or any part thereof including disputes with mortgagees, governmental authorities, utility companies, contractors, adjoining landowners or suppliers of goods and services, that would prevent Agency from meeting any of its respective obligations

under this Agreement or would otherwise adversely affect Developer's exercise of its rights or Developer's compliance with its obligations under this Agreement.

9.1.5 No Violations. To the best of Agency's knowledge, and except as otherwise disclosed by the Agency Materials, there are no violations of any health, safety, pollution, zoning or other laws, ordinances, rules or regulations with respect to the Property, which have not heretofore been entirely corrected.

9.1.6 No Agency Event of Default. As of the Closing Date, there does not exist, nor with the mere passage of time will there exist, any Agency Event of Default.

9.1.7 Continued Correctness. Subject to the last full paragraph of this **Section 9.1**, all representations and warranties of Agency contained in this **Section 9.1** or as expressly stated elsewhere in this Agreement are true and correct in all material respects.

Each of the representations and warranties made by Agency in this Agreement shall be true and correct in all material respects on the Effective Date hereof (except for the representation and warranty set forth in **Section 9.1.6**, which shall be true and correct in all material respects on the Closing Date), and shall be deemed to be made again as of the Close of Escrow, and shall then be true and correct in all material respects. Neither Agency nor City makes any representation or warranty, express or implied, other than those by Agency specifically and expressly stated in this **Section 9.1** or as expressly stated elsewhere in this Agreement. Neither Agency nor City makes any representation, express or implied, that the Property or its condition is suitable for Developer's intended use. Agency shall notify Developer within twenty (20) days of becoming aware of any facts or circumstances which would cause any the foregoing representations and warranties contained in this **Section 9.1** not to be true as of the Closing (referred to in this paragraph as "exceptions"), or which come to the knowledge of Agency's representatives identified above and fall within the scope of representations and warranties made to the best of Agency's knowledge. Failure by Agency to provide such notice shall be deemed a breach of this Agreement by Agency. Any such exception(s) to an Agency representation or warranty arising prior to Close of Escrow shall not be deemed a breach of this Agreement by Agency hereunder, but shall constitute an exception which Developer shall have a right to approve or disapprove. If Developer elects to proceed with Close of Escrow following disclosure of such exception(s), Developer shall be deemed to have approved such exception(s) and Agency's representations and warranties shall be deemed to have been made as of the Closing, subject to such exception(s). In the event such exception(s) are materially adverse to Developer's completion of the sale and purchase of the Property contemplated by this Agreement, following notice to Agency of Developer's disapproval and a reasonable opportunity to cure, in no event less than thirty (30) days nor more than sixty (60) days, Developer's sole and exclusive rights and remedies shall be those set forth in **Section 10.2.2**.

9.2 Developer Representations and Warranties. Developer hereby represents, warrants and covenants all of the following to Agency and City, as of the Effective Date and the Closing Date, all of which shall survive the Close of Escrow and shall be subject to any actual knowledge of Agency prior to Close of Escrow:

9.2.1 Authority. Developer is a limited liability company duly organized, validly existing and in good standing under the laws of California, and the Principals Control and

own fifty-one percent (51%) of the Membership Interests in Developer. Any Completion Guarantor that is not an individual is duly organized, validly existing and in good standing under the laws of the state of its formation and is qualified to transact business in the State of California. The copies of the documents evidencing the formation, organization and governance of Developer and each such Completion Guarantor which have been delivered to Agency are true and complete copies of the originals. Developer has the capacity and full right, power and lawful authority to purchase, acquire and accept the Property and carry out the transactions as provided herein, and the execution, delivery and performance of this Agreement by Developer has been fully authorized by all requisite actions on the part of Developer.

9.2.2 Valid Binding Agreements. This Agreement and the other Governing Documents and all other documents and instruments which have been executed and delivered by Developer or the Completion Guarantor, as applicable, 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 Developer and/or the Completion Guarantor, as applicable, enforceable against them in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium and other laws affecting creditors' rights, or by the application of equitable principles.

9.2.3 No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement and the other Governing Documents 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 Applicable Law, or any provision of the organizational documents of Developer or any Developer Member or the Completion Guarantor, or will conflict with or constitute a breach of or a default under any agreement to which Developer or any Developer Member or the Completion Guarantor is a party, or will result in the creation or imposition of any lien upon any assets or property of Developer or any Developer Member or the Completion Guarantor, other than liens established in accordance with this Agreement.

9.2.4 No Developer Event of Default. As of the Closing Date, there does not exist, nor with the mere passage of time will there exist, any Developer Event of Default.

9.2.5 Continued Correctness. Subject to the last full paragraph of this **Section 9.2**, all representations and warranties of Developer contained in this **Section 9.2** or as expressly stated elsewhere in this Agreement are true and correct in all material respects.

9.2.6 Compliance With Applicable Law. The Project and construction of the Project will comply with all Applicable Law.

9.2.7 Pending Proceedings. Developer has no knowledge of any default under any law or regulation or under any order of any court, board, commission or agency, and there are no known claims, actions, suits or proceedings pending or, to the knowledge of Developer, threatened against or affecting Developer or any Developer Member, at law or in equity, before or by any court, board, commission or agency which might, if determined adversely to Developer or any Developer Member, materially affect Developer's ability to perform its obligations contemplated by this Agreement.

9.2.8 Financial Statements. The financial statements of Developer and other financial data and information furnished by Developer to Agency fairly present the information contained therein. As of the Closing Date, there has not been any adverse, material change in the financial condition of Developer or any Developer Member from that shown by such financial statements and other data and information provided prior thereto.

9.2.9 Taxes. Developer and each Developer Member has filed all federal and other material tax returns and reports required to be filed, and has paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon it, its income or properties 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. Developer has no knowledge of a proposed tax assessment against Developer or any Developer Member that could, if made, be reasonably expected to have a material adverse effect upon the assets, liabilities (actual or contingent), operations, or condition (financial or otherwise) of Developer, taken as a whole, which would be expected to result in a material impairment of the ability of Developer to Complete the Project or meet its other obligations in accordance with the terms of this Agreement.

Each of the representations and warranties made by Developer in this Agreement, shall be true and correct in all material respects on the Effective Date hereof (except for the representation and warranty set forth in **Section 9.2.4**, which shall be true and correct in all material respects on the Closing Date), and shall be deemed to be made again as of the Close of Escrow, and shall then be true and correct in all material respects. Developer does not make any representation or warranty, express or implied, other than those by Developer specifically and expressly stated in this **Section 9.2** or as expressly stated elsewhere in this Agreement. Developer shall notify Agency and City within twenty (20) days of becoming aware of any facts or circumstances which would cause any the foregoing representations and warranties contained in this **Section 9.2** not to be true as of the Closing (referred to in this paragraph as “exceptions”). Failure by Developer to provide such notice shall be deemed a breach of this Agreement by Developer. Any such exception(s) to a Developer representation or warranty arising prior to Close of Escrow shall not be deemed a breach of this Agreement by Developer hereunder, but shall constitute an exception which Agency shall have a right to approve or disapprove. If Agency elects to proceed with Close of Escrow following disclosure of such exception(s), Agency shall be deemed to have approved such exception(s) and Developer’s representations and warranties shall be deemed to have been made as of the Closing, subject to such exception(s). In the event such exception(s) are materially adverse to Agency’s completion of the sale and purchase of the Property contemplated by this Agreement, following notice to Developer of Agency’s disapproval and a reasonable opportunity to cure, in no event less than thirty (30) days nor more than sixty (60) days, Agency’s sole and exclusive rights and remedies shall be those set forth in **Section 10.2.2**.

ARTICLE 10 DEFAULT AND REMEDIES

10.1 Application of Remedies. This **Article 10** shall govern the Parties’ respective remedies for a default under this Agreement and the Parties’ respective rights to terminate this Agreement under certain circumstances in the absence of any default.

10.2 No Fault of Parties Prior to Closing.

10.2.1 The following events constitute a basis for a Party to terminate this Agreement prior to the Closing in the absence of a default by such Party:

(a) Developer, despite its diligent good faith efforts, is unable to meet any condition set forth in **Article 2** within the time and in the manner specified in the applicable section(s) of **Article 2**; or

(b) Developer, despite its diligent good faith efforts, is unable to obtain all Discretionary Additional Project Approvals necessary to allow development of the Project substantially in accordance with the Approved Final Plans; or

(c) If other than as a result of a Developer Event of Default, all Developer Closing Conditions are not satisfied or waived by Developer by the Closing Date; or

(d) Agency, despite its diligent good faith efforts, is unable to meet any condition set forth in **Article 3** within the time and in the manner specified in the applicable section(s) of **Article 3**; or

(e) Agency is unable to convey the Property to Developer as contemplated hereunder as a result of the action or inaction of any other governmental agency with jurisdiction or any other circumstances beyond Agency's reasonable control; or

(f) If other than as a result of an Agency Event of Default, all Agency Closing Conditions are not satisfied or waived by Agency by the Closing Date.

10.2.2 Upon the occurrence of an event described in **Section 10.2.1** or in another section of this Agreement that specifically references the rights and remedies set forth in this **Section 10.2.2**, and at the election of either Party (and provided such Party is not then in default hereunder), and subject to the last sentence of this **Section 10.2.2**, this Agreement may be terminated by either Party (provided such Party is not then in default hereunder) upon not less than ten (10) days prior written notice to the other Party. Upon and following a termination pursuant to this **Section 10.2.2**: (i) Escrow Agent shall return the Additional Deposit to Developer; (ii) Developer shall release and deliver to Agency and Agency shall retain the Developer Agreements, Plans and Approvals; (iii) any costs incurred by a Party in connection with the negotiation, preparation and implementation of this Agreement shall be completely borne by such Party; and (iv) neither Party shall have any rights against or liability to the other Party, except with respect to those provisions of this Agreement that expressly and specifically state that they survive termination of this Agreement.

10.3 Fault of Agency.

10.3.1 Except as to events constituting a basis for termination under **Section 10.2**, each of the following events, if uncured after expiration of the applicable cure period, shall constitute an event of default hereunder by Agency ("**Agency Event of Default**"):

(a) Agency without good cause fails to convey the Property within the time and in the manner specified in **Article 4** following the satisfaction or written waiver by Agency of all Agency Closing Conditions, and Developer is otherwise entitled hereunder to such conveyance;

(b) Agency does not attempt diligently and in good faith to cause satisfaction of all conditions set forth in **Article 3**; or

(c) Agency breaches any other material provision of this Agreement or any other Governing Documents.

10.3.2 Upon the occurrence of an event described in **Section 10.3.1**, Developer shall first notify Agency in writing of its purported breach or failure, and Agency shall have thirty (30) days from receipt of such notice to cure such breach or failure. If Agency does not cure within such thirty-day period or, if the breach or failure is not susceptible of cure within such thirty-day period, Agency fails to commence the cure within such thirty-day period and thereafter to prosecute the cure diligently to completion within a reasonable time thereafter, but in no event later than one hundred twenty (120) days after receipt of such notice, then such uncured breach or failure shall constitute an Agency Event of Default, whereupon: (i) Escrow Agent shall return the Additional Deposit to Developer; (ii) Agency shall release to Developer all rights, title and interest of Agency in and to the Developer Agreements, Plans and Approvals; and (iii) subject to the provisions of **Section 10.12**, Developer shall be entitled to any other rights afforded it at law or in equity.

10.4 Fault of Developer.

10.4.1 Except as to events constituting a basis for termination under **Section 10.2**, each of the following events, if uncured after expiration of the applicable cure period, shall constitute an event of default hereunder by Developer ("**Developer Event of Default**"):

(a) Developer does not attempt diligently and in good faith to cause satisfaction of all conditions set forth in **Article 2** and its obligations set forth in **Article 4**;

(b) Developer refuses or is unable for any reason (including, but not limited to, lack of funds) to accept the conveyance of the Property from Agency within the time and in the manner specified in **Article 4** following the satisfaction or written waiver by Developer of all Developer Closing Conditions;

(c) Developer fails to Commence or Complete Construction, or cause the Commencement or Completion of Construction of any Construction Phase or the Project in the time and manner set forth in **Article 5** and the Schedule of Performance;

(d) Developer attempts or completes a Transfer, whether voluntarily or involuntarily, except as expressly permitted under **Article 7**;

(e) Developer (i) prior to Closing, does not attempt diligently and in good faith to procure in a timely manner all Discretionary Additional Project Approvals or (ii) after Closing, does not attempt diligently and in good faith to procure in a timely manner all

Building Permits and other Project Approvals or abandons any further attempts when there is a reasonable likelihood that such Building Permits and other Project Approvals would otherwise be issued by the proper authority in a timely manner and with such conditions of approval, if any, reasonably acceptable to Developer;

(f) Developer abandons or suspends construction of the Project, other than for a Force Majeure Delay, for a period of forty-five (45) consecutive days, or for a cumulative period of ninety (90) days in any consecutive twelve (12) month period;

(g) Any representation or warranty of Developer contained in this Agreement or in any application, financial statement, certificate or report submitted to Agency in connection with this Agreement proves to have been incorrect in any material and adverse respect when made and continues to be materially adverse to Agency;

(h) A Bankruptcy/Insolvency Event occurs with respect to Developer or any Principal or Completion Guarantor;

(i) Developer authorizes or allows recordation against the Property or the Project (or any portion thereof) of a lien that is not a Permitted Security Interest or Other Approved Security Interest prior to the recordation of a Certificate of Project Completion;

(j) Developer breaches or defaults under any Project Loans, and such breach or default is not cured by Developer within the time provided for such cure under the applicable loan documents; or

(k) Developer breaches any other material provision of this Agreement or any other Governing Documents.

10.4.2 Remedies. Upon the occurrence of an event described in **Section 10.4.1**, Agency shall first notify Developer in writing of its purported breach or failure (“**Agency Notice of Developer Default**”), and Developer shall have thirty (30) days from receipt of such Agency Notice of Developer Default to cure such breach or failure. If Developer does not cure within such thirty (30)-day period or, if the breach or failure is not susceptible of cure within such thirty (30)-day period, Developer fails to commence the cure within such thirty-day period and thereafter to prosecute the cure diligently to completion within a reasonable time thereafter, but in no event later than one hundred twenty (120) days after receipt of such notice, then such uncured breach or failure shall constitute a Developer Event of Default and Agency shall be afforded all of the following rights and remedies:

(a) Prior to Closing. If a Developer Event of Default occurs prior to the Closing, Agency may, as its sole and exclusive remedies hereunder: (i) terminate in writing this Agreement by giving Developer a ten (10)-day written notice of such termination; provided, however, that Agency’s rights and remedies pursuant to the indemnification provisions and other provisions of this Agreement that specifically state they will survive termination of this Agreement will survive such termination; (ii) receive liquidated damages pursuant to **Section 10.5**; and (iii) obtain the Developer Agreements, Plans and Approvals pursuant to **Section 10.6**.


(b) Between Closing and Issuance of Certificate of Project Completion.

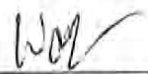
If a Developer Event of Default occurs after the Closing but prior to the date on which the Agency issues a Certificate of Project Completion, Agency may: (i) terminate in writing this Agreement; provided, however, that Agency's rights and remedies pursuant to the indemnification provisions and other provisions of this Agreement that specifically state they will survive termination of this Agreement will survive such termination; (ii) seek specific performance of this Agreement or injunctive relief against Developer; (iii) obtain the Developer Agreements, Plans and Approvals pursuant to **Section 10.6**; (iv) exercise the rights and remedies described in **Section 10.7**; and (v) subject to the provisions of **Section 10.12**, exercise any other rights and remedies against Developer afforded Agency at law or in equity.

(c) After Issuance of Certificate of Project Completion.

If a Developer Event of Default occurs after issuance by Agency of a Certificate of Project Completion, Agency may: (i) seek specific performance of this Agreement or injunctive relief against Developer; (ii) exercise the rights and remedies described in **Section 10.7**; and (iii) subject to the provisions of **Section 10.12**, exercise any other remedy against Developer afforded Agency at law or in equity.

10.5 Liquidated Damages. IN THE EVENT THAT THE CLOSING HEREUNDER DOES NOT OCCUR BY REASON OF A DEVELOPER EVENT OF DEFAULT, THE PARTIES AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES THAT AGENCY MAY SUFFER. THEREFORE, THE PARTIES HEREBY AGREE THAT A REASONABLE ESTIMATE OF SUCH DAMAGES IS THE AMOUNT OF THE ADDITIONAL DEPOSIT (INCLUDING ALL ACCRUED INTEREST), AND THAT IN SUCH EVENT THE ADDITIONAL DEPOSIT SHALL BE RELEASED FROM ESCROW AND PAID TO AND RETAINED BY AGENCY AS LIQUIDATED DAMAGES AND, EXCEPT AS OTHERWISE SET FORTH IN SECTIONS 10.4.2(a) AND 11.10, AS AGENCY'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEVELOPER EVENT OF DEFAULT. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO AGENCY PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS SECTION 10.5, THE PARTIES AGREE THIS LIQUIDATED DAMAGES PROVISION DOES NOT, AND SHALL NOT BE DEEMED TO, LIMIT IN ANY WAY DEVELOPER'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT. BY INITIALING IN THE SPACE BELOW, THE PARTIES ACKNOWLEDGE THE FOREGOING AND SPECIFICALLY AFFIRM THEIR RESPECTIVE AGREEMENTS SET FORTH IN THIS SECTION 10.5. THE PROVISIONS OF THIS SECTION 10.5 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.


Developer's Initials


Agency's Initials

10.6 Developer Agreements, Plans and Approvals. If there occurs a Developer Event of Default prior to Completion of the Project that gives rise to the right of Agency under this **Article 10 to exercise rights or remedies under this **Section 10.6**, or if Agency acquires the Property**

pursuant to the Agency Option Agreement, Developer, at no cost to Agency, shall immediately and irrevocably release and turn over to Agency or its designee all Developer Agreements, Plans and Approvals pursuant to the Assignment of Developer Agreements, Plans and Approvals. Agency and/or its assignee or designee shall be free to use any such Developer Agreements, Plans and Approvals in accordance with their terms.

10.7 Option to Repurchase, Reenter and Repossess.

10.7.1 If after the Closing and prior to the issuance of the Certificate of Project Completion, there is a Developer Event of Default under **Section 10.4.1(c)** or **Section 10.4.1(f)**, Agency shall have the right, exercisable at its option, in addition to its rights under **Section 10.6**, but otherwise (and only in the event Agency exercises such right) as its sole and exclusive remedy under the Governing Documents for such Developer Event of Default, to repurchase and thereupon reenter and take possession of the Property or any portion thereof owned by Developer including all Improvements thereon.

10.7.2 Such right to repurchase, reenter and repossess, 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;

(a) Any Permitted Security Interest or Other Approved Security Interest; or

(b) Any rights provided in this Agreement for the protection of the Holder of a Permitted Security Interest or Other Approved Security Interest.

10.7.3 To exercise its right to repurchase, reenter and take possession with respect to the Property owned by Developer:

10.7.3.1 Agency shall provide written notice to Developer of its election to exercise such right not later than the date (the "**Repurchase Election Date**") that is forty-five (45) days after expiration of the applicable cure period with respect to the breach or failure giving rise to such Developer Event of Default; and

10.7.3.2 Not later than forty-five days after the Repurchase Election Date, Developer shall reconvey the Property by grant deed to Agency and Agency shall concurrently pay to Developer in cash an amount equal to:

(a) The fair market value of the Improvements existing on the applicable portion of the Property at the time of the repurchase (as determined by an appraisal obtained by Agency); minus

(b) The value of any unpaid liens or encumbrances on the applicable portion of the Property which Agency assumes or which Agency takes subject to.

Upon closing of the repurchase of the Property by Agency under this **Section 10.7**, and compliance by Developer with **Section 10.6**, this Agreement and all obligations and liabilities of the Parties hereunder, and the Completion Guaranty and all obligations of the Completion Guarantors

thereunder, shall terminate; provided, however, that Agency's rights and remedies under the indemnification provisions and other provisions of this Agreement and/or the Completion Guaranty that specifically state they will survive termination of this Agreement and/or the Completion Guaranty will survive such termination.

The rights and remedies of Agency established in this **Section 10.7** and elsewhere in this Agreement are to be interpreted in light of the fact that Agency will convey the Property to Developer hereunder for development and disposition of the Project as provided in this Agreement and not for speculation.

10.8 Survival. Upon any termination of this Agreement under this **Article 10**, all Developer indemnification obligations and other provisions of this Agreement that specifically state they will survive termination of this Agreement will survive such termination. This **Section 10.8** exists for reference purposes only, and does not alter the scope or nature of the surviving provisions.

10.9 Rights and Remedies Cumulative. Except as otherwise expressly provided herein, no right, power, or remedy given to Agency or City by the terms of this Agreement or any other Governing Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to Agency or City by the terms of any such instrument, or by any Applicable Law or otherwise against Developer and/or any other person. Neither the failure nor any delay on the part of Agency or City to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by Agency or City of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

10.10 Waivers. The Agency Executive Director may at his or her discretion waive in writing on behalf of Agency, and without Developer completing an amendment to this Agreement, (i) upon written request by Developer, any non-substantive terms and conditions of this Agreement or any other Governing Documents, and (ii) otherwise, any non-substantive terms and conditions of this Agreement or any other Governing Documents that do not increase any of Developer's obligations or liabilities hereunder. The Agency Executive Director also may at his or her discretion agree on behalf of Agency to any modification of the Schedule of Performance mutually agreed upon by Agency and Developer. No waiver of any default or breach by Developer or of Agency hereunder shall be implied from any omission by Agency or City or Developer, as applicable, to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by Agency or City to or of any act by Developer requiring further consent or approval shall 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 shall in no event constitute a cure or a waiver of any default under this Agreement or any other Governing Documents, nor shall it invalidate any act done pursuant to notice of default, or prejudice Agency or City in the exercise of any right, power, or remedy hereunder or under any other Governing Documents, unless in the exercise of any such right,

power, or remedy all obligations of Developer to Agency and/or City are paid and discharged in full.

10.11 Mortgagee Protection. Any rights of Agency under this **Article 10** shall not defeat, limit or render invalid any Permitted Security Interest or Other Approved Security Interest hereunder or any rights provided for in this Agreement for the protection of Holders of Permitted Security Interests or Other Approved Security Interests. Any conveyance of the Property to Agency pursuant to this **Article 10** shall be subject to Permitted Security Interests and Other Approved Security Interests then existing hereunder.

10.12 Limitations of Liability.

10.12.1 Non-Liability of Officials, Employees and Agents. No member, official, employee or individual agent of Agency or City shall be personally liable to Developer, or any successor in interest to Developer, in the event of any default or breach by Agency or for any amount which may become due to Developer or such successor or on any obligation under the terms of this Agreement. No Principal, Developer Member, officer, director, employee or individual agent of Developer shall be personally liable to Agency, or any successor in interest to Agency, in the event of any default or breach by Developer or for any amount which may become due to Agency or such successor or on any obligation under the terms of this Agreement or any other Governing Documents; provided however that the foregoing shall not, and shall not be deemed to, release or relieve any Completion Guarantor from any obligations under the Completion Guaranty.

10.12.2 Limitations on Damages. Except as otherwise expressly provided in this Agreement, and subject to **Section 11.10**, neither Party shall be liable in damages to the other for any default or breach under this Agreement, it being expressly understood and agreed that, except as otherwise expressly provided in this Agreement, and subject to **Section 11.10**, the sole legal remedy available to a Party against the other Party for a default or breach under this Agreement by such other Party shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement, or to terminate this Agreement; provided, however, that nothing herein shall be deemed to limit any remedies available to Agency under the Completion Guaranty. The Parties hereby acknowledge and agree that in pursuing any of the foregoing mandamus or equitable actions, neither Party shall be required to show any irreparable harm or inability to recover loss merely through money damages in any such action. The limitation on damages set forth in this **Section 10.12.2** shall not preclude actions by a Party to enforce indemnification obligations or obligations to pay monies or perform obligations requiring the payment of money by the other Party under the terms of this Agreement or any other Governing Documents, including obligations to pay attorneys' fees and advance monies or reimburse monies. Subject to the preceding provisions of this **Section 10.12.2**, neither Party shall have any liability hereunder to the other for any consequential, indirect or punitive damages. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with, the rights and remedies of such Party hereunder and the waivers herein contained, and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified

solely on the remedies provided for herein with respect to any breach of this Agreement by the other Party.

10.12.3 Limitation on Developer Recourse. Subject to the provisions of **Section 10.12.2**, and notwithstanding any provision herein to the contrary, Developer's recourse for any recovery against Agency for any Agency Event of Default hereunder shall be limited exclusively to Agency's interest in the Property.

ARTICLE 11
GENERAL PROVISIONS

11.1 Notices, Demands and Communications. Any notice, demand or other communication required to be given by Developer or Agency under or pursuant to this Agreement shall be in writing and shall be sufficiently given if (a) addressed as set forth below and (b) delivered in one of the following ways, and shall be deemed to have been delivered or received (i) three (3) days after the date when deposited in the United States registered or certified mail, return receipt requested, with postage prepaid (except in the event of a postal disruption, by strike or otherwise, in the United States), (ii) when personally delivered, (iii) when sent by facsimile or electronic transmission, provided receipt was promptly confirmed in writing by another means of notice allowed in this **Section 11.1**, or (iv) one business day after the date deposited with a nationally recognized courier service (e.g., Federal Express) for next day delivery. The current principal office addresses and facsimile numbers of Agency and Developer are as follows:

Agency: Successor Agency to the Richmond Community Redevelopment Agency
450 Civic Plaza
Richmond, CA 94804
Attn: Executive Director
Telephone No.: (510) 620-6512
Facsimile No.: (510) 620-6542

AND

City Attorney's Office
City of Richmond
450 Civic Center Plaza
Richmond, CA 94804
Attn: Attorney for Successor Agency to Richmond CRA
Telephone No.: (510) 620-6509
Facsimile No.: (510) 620-6518

Developer: Miraflores Community Devco, LLC
5 Thomas Mellon Circle, Suite 117
San Francisco, CA 94134
Attn: Scott Hanks
Telephone No.: (415) 840-2303
Email: shanks@sdcompanies.com

WITH A COPY TO:

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Attn: David Gold, Esq.
Telephone No.: (415) 268-7000
Facsimile No.: (415) 276-7361

AND

Morrison & Foerster LLP
707 Wilshire Blvd., Suite 6000
Los Angeles, CA 90017
Attn: Thomas R. Fileti, Esq.
Telephone No.: (213) 892-5276
Facsimile No.: (213) 892-5454

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 notice as provided in this **Section 11.1**.

If failure to respond to a specified notice, request, demand or other communication within a specified period would result in a deemed approval, a conclusive presumption, a prohibition against further action or protest, or other adverse result specifically provided under this Agreement, the notice, request, demand or other communication shall state clearly and unambiguously on the first page, with reference to the applicable provisions of this Agreement, that failure to respond in a timely manner could have a specified adverse result.

11.2 Conflict of Interest. No member, official or employee of Agency shall make any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership or association in which he or she is directly or indirectly interested.

11.3 Force Majeure. Subject to the limitations set forth below, performance by any Party shall 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; acts of 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); weather or soils conditions which, in the reasonable written opinion of the Prime Contractor, will necessitate delays; inability to secure necessary labor, materials or tools; acts of the other Party; acts or failure to act of any public or governmental agency or entity (other than any acts or failure to act of Agency that do not constitute an Agency Event of Default) despite the diligent and good faith efforts of the Party claiming the delay; or any other causes (other than Developer's inability to obtain financing for the Project) beyond the control or without the fault of the Party claiming an extension of time to perform (each a "**Force Majeure Delay**"). An extension of time hereunder for any Force Majeure Delay shall be for the period of the Force Majeure Delay and will be deemed granted if notice by the Party claiming such extension is sent to the other Party within ten (10) days from the date the Party seeking the extension first discovers or receives notice of the cause

of such Force Majeure Delay and such extension of time is not rejected in writing by the other Party, as not complying with the provisions of this **Section 11.3**, within fifteen (15) days of receipt of the notice claiming a Force Majeure Delay. Developer's inability or failure to obtain financing or otherwise timely satisfy the Agency Conditions Precedent to Closing on or before the Outside Closing Date shall not be deemed to be a Force Majeure Delay. Times of performance under this Agreement may also be extended by the mutual written agreement of Agency and Developer. Notwithstanding the foregoing or any other provision herein to the contrary, the applicability of Force Majeure Delay to particular obligations of the Parties hereunder are specified in the Schedule of Performance.

11.4 Inspection of Books and Records. Agency, at its expense, shall have the right at all reasonable times to inspect and copy the books, records and all other documentation of Developer pertaining to its obligations under this Agreement. Developer, at its expense, shall have the right at all reasonable times to inspect and copy the books, records and all other documentation of Agency pertaining to its obligations under this Agreement to the extent such items to be inspected are part of the public record. Developer and Agency shall retain such books, records and documentation for a period of five (5) years after the later of: a) their creation or b) issuance of the Certificate of Project Completion.

11.5 Developer General Indemnity. Without limiting and in addition to any indemnification obligations of Developer set forth elsewhere in this Agreement, Developer shall indemnify, defend (with counsel reasonably acceptable to Agency and City), protect and hold harmless Agency and Agency Parties, City and City Parties, from and against any and all Claims directly or indirectly arising out of or relating to Developer's ownership, occupancy, or development of the Property or construction on the Property by Developer or the Prime Contractor or other Developer's contractors, subcontractors, agents, employees or tenants, or Developer's obligations or performance or non-performance under this Agreement or any other Governing Documents, and whether such Claims accrue or are discovered during the Term or after the expiration or other termination of this Agreement. Developer's indemnity obligations (but not the duty to defend) under this **Section 11.5** shall not apply to the extent any Claims are finally determined to have been caused by the sole willful misconduct or gross negligence of Agency or other Agency Party or by an Agency Event of Default. Insurance limits shall not operate to limit Developer's indemnity obligations under this **Section 11.5** or elsewhere in this Agreement. The provisions of this **Section 11.5** and all other indemnity obligations of Developer hereunder shall survive expiration of the Term and any termination of this Agreement, and shall remain in full force and effect; provided, however, that Developer's indemnification obligations under this **Section 11.5** shall, upon the termination of Developer's Ownership Period, terminate with respect to any matters regarding that portion of the Property no longer owned by Developer and based on facts, circumstances, or occurrences first arising following such termination of Developer's Ownership Period; provided, however, that nothing herein shall relieve or release Developer from any of its obligations under the Project Warranty Security, which obligations shall survive Developer's Ownership Period and the Term for the Project Warranty Periods.

11.6 Recordation of Memorandum of DDA. As soon as reasonably practicable following execution of this Agreement, the Parties shall duly execute and record against the Property a memorandum of this Agreement, substantially in the form of **Exhibit 11.6** attached hereto ("**Memorandum of DDA**"), in the records of the County Recorder of Contra Costa County.

In the event that this Agreement is terminated for any reason, all Parties agree to promptly execute and record, in form satisfactory to Agency, a termination of this Agreement and the Memorandum of DDA.

11.7 Interpretation. Article and section headings in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of any provision of this Agreement. As used herein: (a) the singular shall include the plural (and vice versa) and the masculine or neuter gender shall include the feminine gender (and vice versa) where the context so requires; (b) locative adverbs such as “herein,” “hereto,” “hereof,” and “hereunder” shall refer to this Agreement in its entirety and not to any specific section or paragraph; (c) the terms “include,” “including,” and similar terms shall be construed as though followed immediately by the phrase “but not limited to;” (d) “shall” and “must” are mandatory and “may” is permissive; and (e) “or” is not necessarily exclusive. The Parties have jointly participated in the negotiation and drafting of this Agreement, and this Agreement shall be construed fairly and equally as to the Parties, without regard to any rules of construction relating to the Party who drafted a particular provision of this Agreement.

11.8 Governing Law; Venue. This Agreement is entered into in and shall be governed by and construed in accordance with the laws of the State of California, without reference to any of its conflict of laws principles. The exclusive venue for any disputes or legal actions hereunder shall be the Superior Court of California in and for the County of Contra Costa.

11.9 Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

11.10 Attorneys’ 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 shall be entitled to recover against the Party not prevailing all reasonable attorneys’ fees (including Agency’s and City’s in-house attorneys’ fees) and costs incurred in such action. For purposes of this, the fees of Agency’s and City’s in-house attorneys shall be based on the fees then regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which such services were rendered who practice in San Francisco Bay Area law firms.

In the event legal action is commenced by a third party or parties, the effect of which is to directly or indirectly challenge or compromise the enforceability, validity, or legality of this Agreement and/or the power of Agency to enter into this Agreement or perform its obligations hereunder, and/or to attack or set aside any Project Approvals, Developer shall defend such action (with counsel reasonably acceptable to Agency and City), and shall indemnify and hold Agency and City harmless against all Claims arising from or in connection with such action. Upon commencement of any such action, Agency and Developer shall meet in good faith and seek to establish a mutually acceptable method of defending such action.

11.11 Binding Upon Successors; Covenants to Run With Land. This Agreement shall be binding upon and inure to the benefit of the Parties and the heirs, administrators, executors, successors in interest, and assigns of each of the Parties; provided, however, that there shall be no Transfer by Developer except as permitted in **Article 7**. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any heir, successor, administrator, executor, successor, or assign of such Party who has acquired an interest in compliance with the terms of this Agreement or under Applicable Law.

The terms of this Agreement shall run with the land comprising the Property, and shall bind all successors in title to the Property or any portion thereof during the Term of this Agreement, except that the provisions of this Agreement that are specified to survive expiration of the Term or termination of this Agreement shall run with the land in perpetuity and remain in full force and effect following such expiration or termination. Each and every contract, deed, or other instrument hereafter executed covering or conveying the Property or any portion thereof shall 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 Agency expressly releases the Property or the applicable portion of the Property from the requirements of this Agreement.

11.12 Joint and Several Obligations. If Developer is comprised of two (2) or more entities, all covenants, obligations, liabilities, representations and warranties of Developer hereunder shall be the joint and several covenants, obligations, liabilities, representations and warranties of each such entity.

11.13 City as Third-Party Beneficiary. City shall be a third-party beneficiary of this Agreement and shall retain enforcement rights and remedies under and with respect to this Agreement. Except as set forth in the preceding sentence or otherwise expressly set forth in this Agreement, no person or entity other than Agency, Developer, and their permitted successors and assigns shall be third party beneficiaries of this Agreement or have any right of enforcement or action under or with respect to this Agreement.

11.14 Relationship of Parties. Nothing in this Agreement, in any actions or negotiations leading to this Agreement, in any acts or omissions under this Agreement, or otherwise is intended to or does establish Agency and/or City, on the one hand, and Developer, on the other hand, as partners, co-venturers, or principal and agent with one another. Accordingly, except as expressly set forth herein, Agency shall have no rights, powers, duties or obligations with respect to the construction, development, operation, maintenance, management, marketing or sales of the Project. Developer shall defend (with counsel reasonably acceptable to Agency and City), indemnify, and hold harmless Agency and City from and against any Claims made against Agency and/or City arising from a claimed relationship of partnership or joint venture between Agency and/or City, on the one hand, and Developer, on the other hand, with respect to the construction, development, operation, maintenance or management of the Project.

11.15 Provisions Not Merged With Agency Grant Deed. None of the provisions of this Agreement shall be merged by or in the Agency Grant Deed or any other instrument transferring title to the Property or any portion thereof, and neither the Agency Grant Deed nor any other such instrument shall affect or impair the provisions of this Agreement.

11.16 Entire Understanding of the Parties. Except as expressly set forth herein, this Agreement, including all recitals and exhibits hereto, constitutes the entire understanding and agreement of the Parties with respect to the subject matter of this Agreement.

11.17 Agency Approval. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent, request, waiver or other action by Agency is required or permitted under this Agreement or other Agency Document, such action may be given, made, or taken by the Agency Executive Director on behalf of Agency, or by any person who shall have been designated in writing to Developer by the Agency Executive Director, without further approval or authorization required by the Agency Board, and any such action shall be in writing; provided, however, that the Agency Executive Director may seek such authorization when he or she deems it appropriate in his or her sole and absolute discretion. The Agency Executive Director may also, at his or her discretion, agree in writing to modification of the dates by which actions are to be completed or to waive non-substantive terms and conditions of this Agreement, to make non-substantive amendments to this Agreement in furtherance of the goals and objectives of this Agreement, or to make reasonable modifications to this Agreement requested by Project Lenders. The Agency Executive Director or his or her designee is authorized to execute and deliver, on behalf of Agency, any ancillary documents and to take any action necessary or desirable to effectuate the provisions and intent of this Agreement, including, without limitation, the Memorandum of DDA, the Agency Grant Deed, the Memorandum of Agency Option, and appropriate escrow instructions.

11.18 Discretion Retained By City. Agency's execution of this Agreement does not constitute any Additional Project Approval or other approval by City and in no way limits the discretion of City in the environmental review or the permit and approval process in connection with development, construction or operation of the Project or otherwise commit City's discretionary powers in any particular manner. Without limiting the preceding sentence, and notwithstanding the title of this Agreement or that City is an express third party beneficiary of this Agreement, neither this Agreement nor any provision thereof shall be deemed under any circumstance to render this Agreement or constitute a development agreement as set forth in California Government Code sections 65864 *et seq.*

11.19 Waiver. No waiver of any provision of this Agreement shall be binding unless executed in writing by the Party making the waiver. No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver unless the written waiver so specifies.

11.20 Counterparts; Facsimile/Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. The Parties shall be entitled to rely upon facsimile copies or electronic copies of the Parties' signatures to this Agreement and any instrument executed in connection herewith. Notwithstanding the foregoing, promptly after sending a facsimile or electronic copy of its signature hereon, each Party shall promptly provide the others with an executed original counterpart, although the failure to provide such counterpart shall not limit the effectiveness of this Agreement.

11.21 Amendments. The Parties can amend this Agreement only by means of a writing signed by all Parties.

11.22 Standard of Approval. Any consents or approvals required or permitted under this Agreement shall not be unreasonably withheld, delayed or conditioned, except where it is specifically provided that a sole discretion standard applies. Except as otherwise expressly provided herein, in the event Agency does not approve or disapprove of a submittal or other matter described herein within any applicable time period specified herein, such inaction shall be deemed to constitute disapproval by Agency of such submittal or other matter as of the expiration of such time period.

11.23 Further Assurances. Each of the Parties agrees to execute and deliver all further documents and to take all further actions reasonably necessary or appropriate to effectuate the purposes and intent of this Agreement.

11.24 Expenses. Except as otherwise expressly provided herein (including within any Approved Final Financing Plan), the Parties shall bear their respective expenses incurred in connection with the preparation, execution and performance of this Agreement, including all fees and expenses of agents, representatives, attorneys and accountants.

11.25 Computation of Time. All references in this Agreement to “days” shall mean calendar days unless expressly referred to as “business days.” The time in which any act is to be done under this Agreement is computed by excluding the first day, and including the last day, unless the last day is a Saturday, Sunday or holiday, and then that day is also excluded. If the day for performance of any obligation under this Agreement is a Saturday, Sunday or holiday, then the time for performance of that obligation shall be extended to the first following day that is not a Saturday, Sunday or holiday. The term “holiday” shall mean all holidays as specified in Sections 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

11.26 Conflict Between Governing Documents. In the event of any conflict between the provisions of this Agreement and the provisions of any other Governing Documents, the provisions of this Agreement shall control to the extent of such conflict.


11.27 Legal Advice. Each Party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

SIGNATURES ON FOLLOWING PAGE

WHEREFORE, the Parties have executed this Agreement as of the date first above written.

DEVELOPER:

MIRAFLORES COMMUNITY DEVCO, LLC, a
California limited liability company

By: 
Title: MANAGING MEMBER
Its: _____


AGENCY:

SUCCESSOR AGENCY TO THE RICHMOND
COMMUNITY REDEVELOPMENT AGENCY, an
entity created and organized under AB IX 26
enacted by the California Legislature on June 28,
2011 and AB 1484 enacted by the California
Legislature on June 27, 2012

By: 
Executive Director

Attest:

By: 
Clerk of the Agency

Reviewed by: 
By: _____
Agency Attorney

**EXHIBIT A-1
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

LEGAL DESCRIPTION OF PROPERTY

[See Attached]

EXHIBIT A-1

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, AS SAID LOT 14 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF ALTA PUNTA TRACT", RECORDED APRIL 22, 1905, IN BOOK D OF MAPS, AT PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE NORTH 00°41'22" EAST 210.00 FEET; THENCE NORTH 89°18'38" WEST 100.00 FEET; THENCE NORTH 00°41'22" EAST 110.00 FEET; THENCE, NORTH 89°18'38" WEST 100.00 FEET TO THE EAST LINE OF SOUTH 47TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 279.30 FEET TO THE EASTERLY PROJECTION OF THE NORTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID EASTERLY PROJECTION AND SAID NORTH LINE, NORTH 89°18'38" WEST 297.45 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00°41'22" EAST 349.20 FEET; THENCE NORTH 89° 18' 38" WEST 212.55 FEET TO THE EAST LINE OF SOUTH 45TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 189.41 FEET TO THE SOUTH LINE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (B.A.R.T.) RIGHT-OF-WAY; THENCE ALONG SAID SOUTH LINE, SOUTH 89° 15' 04" EAST 428.25 FEET; THENCE LEAVING SAID SOUTH LINE, SOUTH 00°41'22" WEST 111.48 FEET; THENCE SOUTH 89°18'38" EAST 41.75 FEET; THENCE ALONG THE ARC OF A TANGENT 78.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 122.52 FEET; THENCE SOUTH 00°41'22" WEST 5.00 FEET; THENCE, SOUTH 89°18'38" EAST 18.17 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33°12'56", AN ARC DISTANCE OF 14.49 FEET; THENCE SOUTH 56°05'42" EAST 11.32 FEET; THENCE ALONG THE ARC OF A TANGENT 34.03 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 34°48'11", AN ARC DISTANCE OF 20.67 FEET; THENCE SOUTH 00°41'22" WEST 266.10 FEET; THENCE ALONG THE ARC OF A TANGENT 24.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°01'47", AN ARC DISTANCE OF 27.24 FEET; THENCE SOUTH 27°22'05" EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PNT); 513-330-001(PNT), 002(PNT), 005(PNT), 006(PNT), 007(PNT), 013 & 014

**EXHIBIT B
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

PRELIMINARY PROJECT PLANS

[See Attached]

PROJECT DESCRIPTION



The following project description is subject to the terms and conditions of the Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) by and between the Successor Agency to the Richmond Community Redevelopment Agency ("Agency") and Miraflores Community Devco, LLC ("Developer"), dated _____ (the "DDA"). This description does not supersede, limit, or otherwise modify the terms of the DDA. In the event that this description conflicts with any other provisions of the DDA, the other provisions shall control.

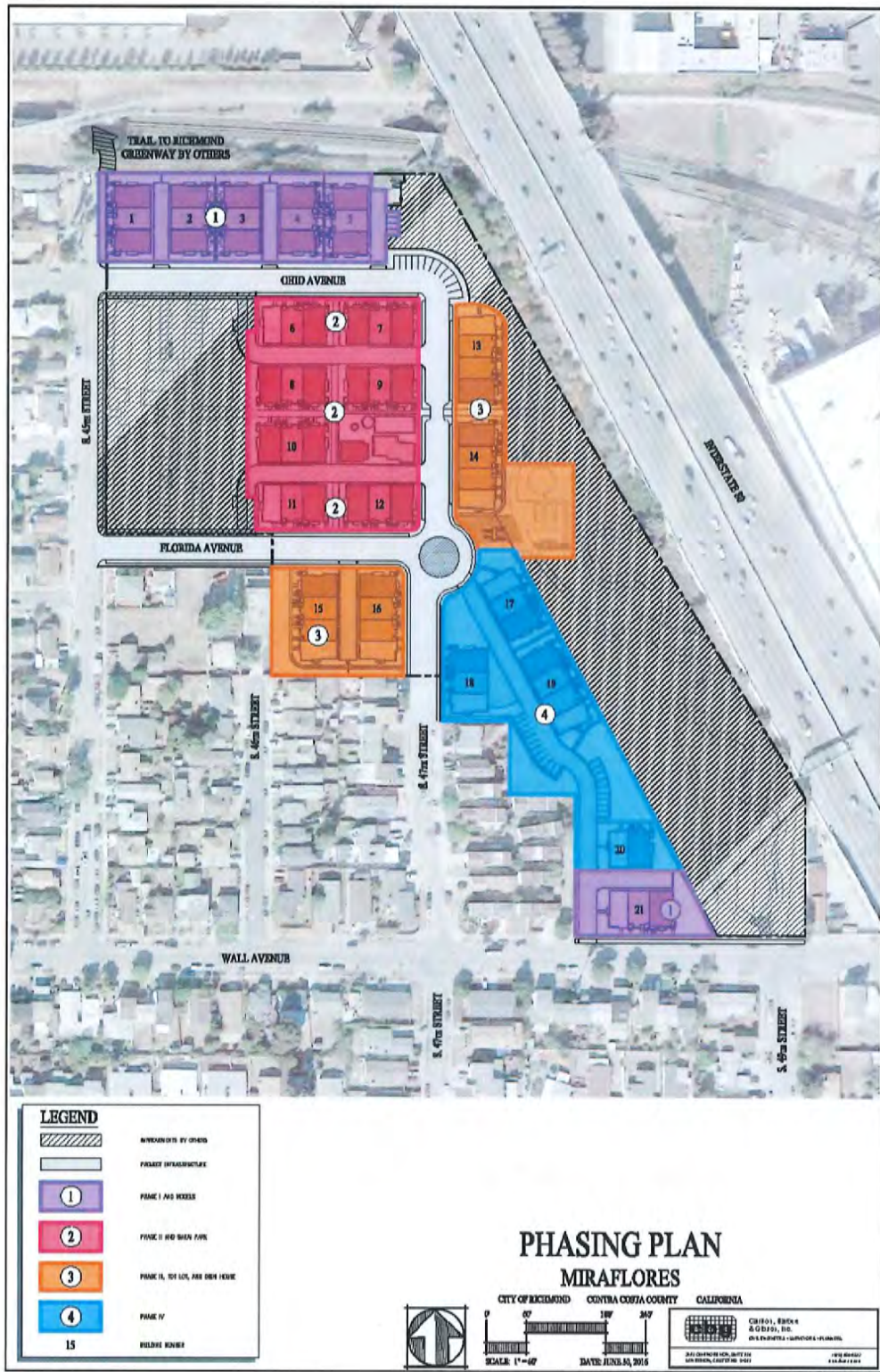
Miraflores Housing Development Community (Market Rate Residential) is a residential development project (as defined in the DDA, the "Project") located along Interstate 80 in the City of Richmond. The Property (as defined in the DDA) is situated within walking distance from the El Cerrito del Norte Bay Area Rapid Transit ("BART") station. The Project consists of primarily of one hundred and sixty (160) for sale market rate residential units and thirty (30) for sale moderate income units, but also includes grading and site preparation, as well as relocation and restoration (as applicable) of certain historic resources within the 7.21 acre property to be owned by Developer.

As set forth in the DDA, Developer is going to complete the entitlements for the Project, which include but are not limited to, tentative (vesting tentative) and final map approval by the Planning Commission, Design Review Board approval, and any and all other governmental or quasi-governmental approvals as required. Developer will construct all Site Improvements (as defined in the DDA) for the Project, which improvements will include, but are not limited to, water, sewer, storm lines, landscape, curb, gutter, dry utilities and sidewalks. Developer will also construct and sell one hundred ninety (190) condominium units, thirty (30) of which will be restricted to be affordable to moderate income households within the meaning of the City of Richmond's Inclusionary Housing Ordinance (households with an income of no more than one hundred twenty percent of the Area Median Income (120% AMI), adjusted for family size appropriate for the unit. Richmond Municipal Code § 15.04.810.062 (L).) Developer will relocate existing Historic Resources (as defined in the DDA), which include: A) The Sakai house; B) A Water tank; C) A Water tower and building; D) Greenhouse 20; E) The Oishi house; and F) A greenhouse or representative sample greenhouse adjacent to the Oishi house, to and upon new foundations at locations recommended by Agency, the Architectural Resources Group ("ARG"), and the Historic Preservation Commission (if required). Developer, at the request of Agency and at no cost to Developer, shall renovate and/or historically restore the Historic Resources referenced above, as recommended by Agency and ARG. Developer will additionally establish a Homeowner's Association ("HOA") for the Project which will own (as applicable), perform and fund the ongoing management, accounting, operation, maintenance, repair and replacement of the Project areas managed by the HOA, including the exterior of all the units, the private roads and both the private and public landscape, recreation and open space and other common areas and facilities within the Project. The above described Project will be completed within the times designated in the phasing plan which follows this description, with the commencement of Site Improvement work to begin no later than March 30, 2017 and Completion of Construction of the Project by July 9, 2021.



REVISED SITE PLAN ALT 8 - 190 UNITS
MIRAFLORES

	CITY OF REC'D AND SCALE: 1" = 40'	CONTRA COSTA COUNTY DATE: FEB 15, 2016	CALIFORNIA  CHEN, BING S. CHEN, P.E. 1000 W. 14TH STREET SAN PABLO, CALIF. 94801 (415) 452-1234 www.chen.com
	ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE.		



PROJECT PHASING PLAN

ID	Task Name	Task Mode	Duration	Start	Finish	Predecessors
1	PROJECT SUMMARY		1316 days	Fri 6/24/16	Fri 7/9/21	
2	DDA		25 days	Fri 6/24/16	Fri 7/29/16	
3	City Council Approval of DDA		18 days	Fri 6/24/16	Tue 7/19/16	
4	Execution of DDA		0 days	Fri 7/29/16	Fri 7/29/16	
5	Design Review Board		34 days	Fri 7/29/16	Wed 9/14/16	
6	Submit Design Review to City		1 day	Fri 7/29/16	Fri 7/29/16	
7	DRB Study Session		1 day	Wed 8/10/16	Wed 8/10/16	
8	Formal Design Review Board Hearing		1 day	Wed 8/24/16	Wed 8/24/16	
9	2nd Hearing for DRB		1 day	Wed 9/14/16	Wed 9/14/16	
10	Design Review Board Approval		0 days	Wed 9/14/16	Wed 9/14/16	
11	Entitlements		44 days	Fri 8/26/16	Wed 10/26/16	
12	Tentative Map Submitted		1 day	Fri 8/26/16	Fri 8/26/16	73
13	Tentative Map Approved		0 days	Fri 8/26/16	Fri 8/26/16	
14	Expiration of 10 Day Appeal Period		10 days	Thu 10/13/16	Wed 10/26/16	79
15	Engineering Plans		234 days	Fri 11/11/16	Wed 10/4/17	
16	Rough Grade Plan Submitted		1 day	Fri 11/11/16	Fri 11/11/16	84
17	Rough Grade Plan Approved		1 day	Thu 3/30/17	Thu 3/30/17	91
18	Improvement Plans Submitted		1 day	Mon 11/14/16	Mon 11/14/16	94
19	Improvement Plans Approved		1 day	Thu 3/30/17	Thu 3/30/17	99
20	Final Map Submitted		1 day	Fri 5/19/17	Fri 5/19/17	102
21	Final Map Approved		1 day	Mon 9/25/17	Mon 9/25/17	108
22	Final Map Recorded		7 days	Tue 9/26/17	Wed 10/4/17	109
23	Landscape Plans		74 days	Wed 11/2/16	Mon 2/13/17	

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ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
24	Task	Common Area Landscape Plan Submitted	1 day	Wed 11/2/16	Wed 11/2/16	129
25	Task	Common Area Landscape Plan Approved	1 day	Mon 2/13/17	Mon 2/13/17	135
26	Task	Model Landscape Plan Submitted	1 day	Fri 2/3/17	Fri 2/3/17	138
27	Task	Model Landscape Plan Approved	1 day	Mon 2/13/17	Mon 2/13/17	144
28	Task	Utility Plans	262 days	Mon 1/16/17	Tue 1/16/18	
29	Task	Joint Trench Plans Submitted	24 days	Mon 1/16/17	Thu 2/16/17	95
30	Task	Final Joint Trench Plans Received	238 days	Fri 2/17/17	Tue 1/16/18	29
31	Task	Architectural Plans	66 days	Mon 1/9/17	Mon 4/10/17	
32	Task	Architectural Plans Submitted	1 day	Mon 1/9/17	Mon 1/9/17	147
33	Task	Architectural Plans Approved	19 days	Wed 3/15/17	Mon 4/10/17	152
34	Task	BRE	141 days?	Mon 5/8/17	Mon 11/20/17	
35	Task	Pink Report Received	7 days	Mon 5/8/17	Tue 5/16/17	157
36	Task	Yellow Report Received	7 days?	Mon 5/8/17	Tue 5/16/17	157
37	Task	White Report Application Submitted	8 days	Wed 5/17/17	Fri 5/26/17	160
38	Task	White Report Received - Phase 1	12 days	Fri 11/3/17	Mon 11/20/17	165
39	Task	Development/Construction	180 days	Thu 3/30/17	Wed 12/6/17	
40	Task	Start Grading	23 days	Thu 3/30/17	Mon 5/1/17	91
41	Task	Start Models	132 days	Mon 4/17/17	Tue 10/17/17	185SS
42	Task	Model Grand Opening	1 day	Fri 10/27/17	Fri 10/27/17	186
43	Task	Start Production Phase 1	132 days	Mon 6/5/17	Tue 12/5/17	189
44	Task	First Closing	1 day	Wed 12/6/17	Wed 12/6/17	190
45	Task	Closings - Phases	908 days?	Thu 12/7/17	Mon 5/31/21	
46	Task	Phase 1 (45 Units)	150 days	Thu 12/7/17	Wed 7/4/18	191

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Legend:

- Task
- Split
- Milestone
- Summary
- Project Summary
- Inactive Task
- Inactive Milestone
- External Tasks
- External Milestone
- Deadline
- Progress
- Manual Progress
- Inactive Summary
- Manual Task
- Duration-only
- Manual Summary Rollup
- Manual Summary
- Start-only
- Finish-only

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ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
47	☑	Phase 2 (61 Units)	203 days?	Mon 7/30/18	Wed 5/8/19	196
48	☑	Complete Sakai Park - All Associated Historical Buildings	140 days	Wed 1/24/18	Tue 8/7/18	197
49	☑	Complete Oishi House and Partial Greenhouse	140 days	Wed 1/24/18	Tue 8/7/18	199
50	☑	Phase 3 (44 Units)	150 days?	Thu 5/14/20	Wed 12/9/20	205
51	☑	Phase 4 (32 Units)	107 days?	Thu 12/17/20	Fri 5/14/21	211
52	☑	Models (8 Units)	11 days?	Mon 5/17/21	Mon 5/31/21	214
53	☑	Last Closing	0 days	Mon 5/31/21	Mon 5/31/21	216
54	☑	FINAL ACCEPTANCE AND COMPLETION OF PROJECT	5 days	Mon 7/5/21	Fri 7/9/21	216
55	☑	Site Work - R & R all Items / Complete final Punch list Items -	60 days	Mon 4/12/21	Fri 7/2/21	
56	☑	Final Acceptance				
56	☑	Final Inspection and Acceptance for Completion of the Project	5 days	Mon 7/5/21	Fri 7/9/21	216
57	☑	PROJECT DETAIL				
58	☑	DDA	1320 days?	Mon 6/20/16	Fri 7/9/21	
59	☑	Complete DDA	25 days	Fri 6/24/16	Fri 7/29/16	
60	☑	City Council Approval of DDA	1 day	Fri 6/24/16	Fri 6/24/16	
61	☑	Execution of DDA	18 days	Fri 6/24/16	Tue 7/19/16	
62	☑	Design Review Board	0 days	Fri 7/29/16	Fri 7/29/16	
63	☑	Submit Design Review to City	34 days	Fri 7/29/16	Wed 9/14/16	
64	☑	DRB Study Session	1 day	Fri 7/29/16	Fri 7/29/16	62
65	☑	Submittal Changes from DRB Study Session	1 day	Wed 8/10/16	Wed 8/10/16	
66	☑	Formal Design Review Board Hearing	6 days	Thu 8/11/16	Thu 8/18/16	65
67	☑		1 day	Wed 8/24/16	Wed 8/24/16	

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ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
68		Corrections/Changes	5 days	Thu 8/25/16	Wed 8/31/16	67
69		2nd Hearing for DRB	1 day	Wed 9/14/16	Wed 9/14/16	
70		Design Review Board Approval	0 days	Wed 9/14/16	Wed 9/14/16	69
71		Entitlement	93 days	Mon 6/20/16	Wed 10/26/16	
72		Design Vesting Tentative Map	49 days	Mon 6/20/16	Thu 8/25/16	
73		Design Condominium Map Overlay	49 days	Mon 6/20/16	Thu 8/25/16	
74		Submit VTM to the City	1 day	Fri 8/26/16	Fri 8/26/16	73
75		Corrections	20 days	Mon 8/29/16	Fri 9/23/16	74
76		Resubmittal of VTM	1 day	Mon 9/26/16	Mon 9/26/16	75
77		Planning Commission Hearing	1 day	Wed 10/12/16	Wed 10/12/16	
78		VTM/Condo Overlay Approval	1 day	Wed 10/12/16	Wed 10/12/16	
79		Planning Commission Approval	1 day	Wed 10/12/16	Wed 10/12/16	
80		Expiration of 10 day Appeal Period	10 days	Thu 10/13/16	Wed 10/26/16	79
81		Engineering Plans				
82		Rough Grade Plan	133 days	Mon 9/26/16	Wed 3/29/17	
83		Design Rough Grade	34 days	Mon 9/26/16	Thu 11/10/16	75
84		Soils Review of Grading Plan	0 days	Thu 11/10/16	Thu 11/10/16	83
85		Rough Grade Plan Submitted	1 day	Fri 11/11/16	Fri 11/11/16	84
86		1st Plan Check	45 days	Mon 11/14/16	Fri 1/13/17	85
87		Corrections	24 days	Mon 1/16/17	Thu 2/16/17	86
88		2nd Plan Check	23 days	Fri 2/17/17	Tue 3/21/17	87
89		Corrections	6 days	Wed 3/22/17	Wed 3/29/17	88
90		3rd Plan Check	0 days	Wed 3/29/17	Wed 3/29/17	89

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Task
Split
Milestone
Summary
Project Summary
Inactive Task
Inactive Milestone
External Tasks
External Milestone
Deadline
Progress
Manual Progress

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
91		Rough Grade Plan Approved	0 days	Wed 3/29/17	Wed 3/29/17	90
92		Improvement Plans, Joint Trench	133 days	Mon 9/26/16	Wed 3/29/17	
93		Design Improvement Plans	34 days	Mon 9/26/16	Thu 11/10/16	75
94		Improvement Plans Submitted	1 day	Fri 11/11/16	Fri 11/11/16	93
95		1st Plan Check	45 days	Mon 11/14/16	Fri 1/13/17	94
96		Corrections	24 days	Mon 1/16/17	Thu 2/16/17	95
97		2nd Plan Check	23 days	Fri 2/17/17	Tue 3/21/17	96
98		Corrections	6 days	Wed 3/22/17	Wed 3/29/17	97
99		3rd Plan Check	0 days	Wed 3/29/17	Wed 3/29/17	98
100		Improvement Plans Approved	0 days	Wed 3/29/17	Wed 3/29/17	99
101		Final Map	133 days	Mon 4/3/17	Wed 10/4/17	
102		Final Map Design	34 days	Mon 4/3/17	Thu 5/18/17	102
103		Final Map Submitted	1 day	Fri 5/19/17	Fri 5/19/17	103
104		1st Plan Check	45 days	Mon 5/22/17	Fri 7/21/17	103
105		Corrections	24 days	Mon 7/24/17	Thu 8/24/17	104
106		2nd Plan Check	21 days	Fri 8/25/17	Fri 9/22/17	105
107		Corrections	0 days	Fri 9/22/17	Fri 9/22/17	106
108		3rd Plan Check	0 days	Fri 9/22/17	Fri 9/22/17	107
109		Final Map Approved (City Council)	1 day	Mon 9/25/17	Mon 9/25/17	108
110		Record 1st Final Map	7 days	Tue 9/26/17	Wed 10/4/17	109
111		Fence & Wall Plans	83 days	Mon 11/14/16	Wed 3/8/17	
112		Design Fence & Wall Plans	10 days	Mon 11/14/16	Fri 11/25/16	
113		Fence & Wall Plans Submitted	1 day	Mon 11/28/16	Mon 11/28/16	112

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Legend:

- Task: Solid blue bar
- Split: Dotted blue bar
- Milestone: Diamond icon
- Summary: Solid blue bar with diamond
- Project Summary: Solid blue bar with diamond
- Inactive Task: Dashed blue bar
- Inactive Milestone: Dashed blue bar with diamond
- Inactive Summary: Dashed blue bar with diamond
- Manual Task: Solid blue bar
- Duration-only: Solid blue bar
- Manual Summary Rollup: Solid blue bar with diamond
- Manual Summary: Solid blue bar with diamond
- Start-only: Solid blue bar with diamond
- Finish-only: Solid blue bar with diamond
- External Tasks: Solid blue bar
- External Milestone: Solid blue bar with diamond
- Deadline: Solid blue bar with diamond
- Progress: Solid blue bar with diamond
- Manual Progress: Solid blue bar with diamond

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
114		1st Plan Check	20 days	Tue 11/29/16	Mon 12/26/16	113
115		Corrections	19 days	Tue 12/27/16	Fri 1/20/17	114
116		2nd Plan Check	23 days	Mon 1/23/17	Wed 2/22/17	115
117		corrections	10 days	Thu 2/23/17	Wed 3/8/17	116
118		3rd Plan Check	0 days	Wed 3/8/17	Wed 3/8/17	117
119		Fence & Wall Plans Approved	0 days	Wed 3/8/17	Wed 3/8/17	118
120		SWPPP Plan & NOI	26 days	Mon 11/14/16	Mon 12/19/16	
121		Design SWPPP Plan	15 days	Mon 11/14/16	Fri 12/2/16	85
122		Internal Review of Draft SWPPP	5 days	Mon 12/5/16	Fri 12/9/16	121
123		Corrections	5 days	Mon 12/12/16	Fri 12/16/16	122
124		Complete Notice of Intent	0 days	Fri 12/16/16	Fri 12/16/16	121,123
125		Submit Notice of Intent to RWQCB	1 day	Mon 12/19/16	Mon 12/19/16	124
126		Obtain WDID#	0 days	Mon 12/19/16	Mon 12/19/16	125
127		Landscape Plans	107 days	Thu 9/15/16	Fri 2/10/17	
128		Landscape Plans Approved	107 days	Thu 9/15/16	Fri 2/10/17	
129		Design Landscape Plans	34 days	Thu 9/15/16	Tue 11/1/16	70
130		Landscape Plan Submitted	1 day	Wed 11/2/16	Wed 11/2/16	129
131		1st Plan Check	45 days	Thu 11/3/16	Wed 1/4/17	130
132		Corrections	21 days	Thu 1/5/17	Thu 2/2/17	131
133		2nd Plan Check	2 days	Fri 2/3/17	Mon 2/6/17	132
134		Corrections	4 days	Tue 2/7/17	Fri 2/10/17	133
135		3rd Plan Check	0 days	Fri 2/10/17	Fri 2/10/17	134
136		Landscape Plans Approved	0 days	Fri 2/10/17	Fri 2/10/17	135

Project: C:\Users\Scott\Docume
Date: Sat 6/25/16

Legend:

- Task
- Split
- Milestone
- Summary
- Project Summary
- Inactive Task
- Inactive Milestone
- External Tasks
- External Milestone
- Deadline
- Progress
- Manual Progress
- Inactive Summary
- Manual Task
- Duration-only
- Manual Summary Rollup
- Manual Summary
- Start-only
- Finish-only

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
137	Task	Model Landscape Plans	107 days	Thu 9/15/16	Fri 2/10/17	
138	Task	Design Model Landscape Plans	101 days	Thu 9/15/16	Thu 2/2/17	70
139	Task	Model Landscape Plan Submitted	1 day	Fri 2/3/17	Fri 2/3/17	138
140	Task	1st Plan Check	5 days	Mon 2/6/17	Fri 2/10/17	139
141	Task	Corrections	0 days	Fri 2/10/17	Fri 2/10/17	140
142	Task	2nd Plan Check	0 days	Fri 2/10/17	Fri 2/10/17	141
143	Task	Corrections	0 days	Fri 2/10/17	Fri 2/10/17	142
144	Task	3rd Plan Check	0 days	Fri 2/10/17	Fri 2/10/17	143
145	Task	Model Landscape Plans Approved	0 days	Fri 2/10/17	Fri 2/10/17	144
146	Task	Architectural Plans	148 days	Thu 9/15/16	Mon 4/10/17	
147	Task	Construction Drawings	82 days	Thu 9/15/16	Fri 1/6/17	70
148	Task	Architecture Plans Submitted	1 day	Mon 1/9/17	Mon 1/9/17	147
149	Task	1st Plan Check (send to City & Xpera)	16 days	Tue 1/10/17	Tue 1/31/17	148
150	Task	Corrections	15 days	Wed 2/1/17	Tue 2/21/17	149
151	Task	2nd Plan Check	15 days	Wed 2/22/17	Tue 3/14/17	150
152	Task	Corrections	0 days	Tue 3/14/17	Tue 3/14/17	151
153	Task	Architectural Plans Approved	19 days	Wed 3/15/17	Mon 4/10/17	152
154	Task	BRE	209 days	Wed 2/1/17	Mon 11/20/17	
155	Task	Submit Civil & Architectural Plans for BRE Budgeting	30 days	Wed 2/1/17	Tue 3/14/17	149
156	Task	Commence Legal for BRE (HOA, Bylaws, CCR's, etc.)	30 days	Wed 2/1/17	Tue 3/14/17	149
157	Task	Apply for Pink Report	38 days	Wed 3/15/17	Fri 5/5/17	156
158	Task	Obtain Pink Report	7 days	Mon 5/8/17	Tue 5/16/17	157
159	Task	Apply for Yellow Report	38 days	Wed 3/15/17	Fri 5/5/17	156

Project C:\Users\Scott\Docume
Date: Sat 6/25/16

Task
Split
Milestone
Summary
Project Summary
Inactive Task
Inactive Milestone
External Tasks
External Milestone
Deadline
Progress
Manual Progress

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
160		Obtain Yellow Report	7 days	Mon 5/8/17	Tue 5/16/17	157
161		Submit for White Report	8 days	Wed 5/17/17	Fri 5/26/17	160
162		BRE Review (White)	60 days	Mon 5/29/17	Fri 8/18/17	161
163		Address Comments (White)	16 days	Mon 8/21/17	Mon 9/11/17	162
164		2nd BRE Review (White)	30 days	Tue 9/12/17	Mon 10/23/17	163
165		Provide Documents	8 days	Tue 10/24/17	Thu 11/2/17	164
166		Obtain White Report	12 days	Fri 11/3/17	Mon 11/20/17	165
167		Site Development	164 days	Thu 3/30/17	Tue 11/14/17	
168		Rough Grade	23 days	Thu 3/30/17	Mon 5/1/17	91
169		Sewer	15 days	Tue 5/2/17	Mon 5/22/17	168
170		Storm Drain	14 days	Tue 5/23/17	Fri 6/9/17	169
171		Water	14 days	Mon 6/12/17	Thu 6/29/17	170
172		Joint Trench Utilities	34 days	Fri 6/30/17	Wed 8/16/17	171
173		Street Subgrade	8 days	Thu 8/17/17	Mon 8/28/17	172
174		80% Base rock	7 days	Tue 8/29/17	Wed 9/6/17	173
175		Curb and Gutter	4 days	Thu 9/7/17	Tue 9/12/17	174
176		Sidewalk	27 days	Wed 9/13/17	Thu 10/19/17	175
177		Underground Testing	9 days	Fri 10/20/17	Wed 11/1/17	176
178		Finish Base rock	2 days	Thu 11/2/17	Fri 11/3/17	177
179		Paving	2 days	Mon 11/6/17	Tue 11/7/17	178
180		Set Transformers & Pull Cable, PG&E Approval	10 days	Thu 9/7/17	Wed 9/20/17	174
181		Final Clean and City Acceptance	5 days	Wed 11/8/17	Tue 11/14/17	179
182		PG&E Connect / Energize Models	20 days	Thu 9/21/17	Wed 10/18/17	180

Project: C:\Users\Scott\Docume
Date: Sat 6/25/16

The legend defines various task types used in the Gantt chart:

- Inactive Summary:** Light blue bar with a dashed line.
- Manual Task:** Solid blue bar.
- Duration-only:** Blue bar with a dashed line.
- Manual Summary Rollup:** Blue bar with a dashed line and a small square at the end.
- Manual Summary:** Solid blue bar.
- Start-only:** Blue bar with a dashed line and a small square at the end.
- Finish-only:** Blue bar with a dashed line and a small square at the end.
- External Tasks:** Light blue bar.
- External Milestone:** Light blue bar with a small square at the end.
- Deadline:** Blue bar with a small square at the end.
- Progress:** Blue bar with a small square at the end.
- Manual Progress:** Blue bar with a small square at the end.

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
183		Vertical Construction				
184		Models (8 Units)	139 days	Mon 4/17/17	Thu 10/26/17	
185		Model Construction	132 days	Mon 4/17/17	Tue 10/17/17	
186		Model Decorating	7 days	Wed 10/18/17	Thu 10/26/17	185
187		Model Grand Opening	0 days	Thu 10/26/17	Thu 10/26/17	186
188		Phase 1 Production (45 Units)	283 days	Mon 6/5/17	Wed 7/4/18	
189		Start Foundations	0 days	Mon 6/5/17	Mon 6/5/17	
190		Construction	132 days	Mon 6/5/17	Tue 12/5/17	189
191		First Unit Closing	1 day	Wed 12/6/17	Wed 12/6/17	190
192		Last Unit Closing (average - 1.5 unit per week)	150 days	Thu 12/7/17	Wed 7/4/18	191
193		Phase 2 Production (61 Units)	336 days	Wed 1/24/18	Wed 5/8/19	
194		Start Foundations	0 days	Wed 1/24/18	Wed 1/24/18	
195		Construction	132 days	Wed 1/24/18	Thu 7/26/18	194
196		First Closing	1 day	Fri 7/27/18	Fri 7/27/18	195
197		Start Sakai Park - All Associated Historical Buildings	0 days	Wed 1/24/18	Wed 1/24/18	
198		Complete Sakai Park - All Associated Historical Buildings	140 days	Wed 1/24/18	Tue 8/7/18	197
199		Start Oishi House and Partial Greenhouse	0 days	Wed 1/24/18	Wed 1/24/18	
200		Complete Oishi House and Partial Greenhouse	140 days	Wed 1/24/18	Tue 8/7/18	199
201		Last Unit Closing (average - 1.5 unit per week)	203 days	Mon 7/30/18	Wed 5/8/19	196
202		Phase 3 Production (44 Units)	433 days	Mon 4/15/19	Wed 12/9/20	
203		Start Foundations	0 days	Mon 11/11/19	Mon 11/11/19	
204		Construction	132 days	Mon 11/11/19	Tue 5/12/20	203
205		First Closing	1 day	Wed 5/13/20	Wed 5/13/20	204

Task Split Milestone Summary Project Summary Inactive Task Inactive Milestone	Inactive Summary Manual Task Duration-only Manual Summary Rollup Manual Summary Start-only Finish-only	External Tasks External Milestone Deadline Progress Manual Progress
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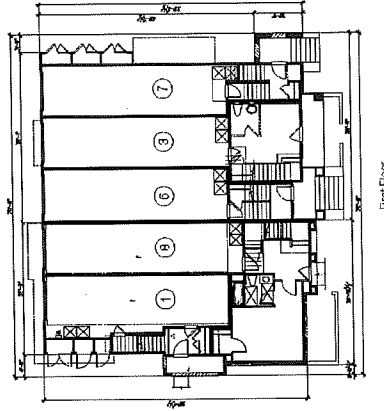
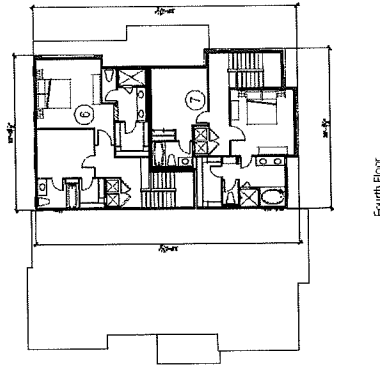
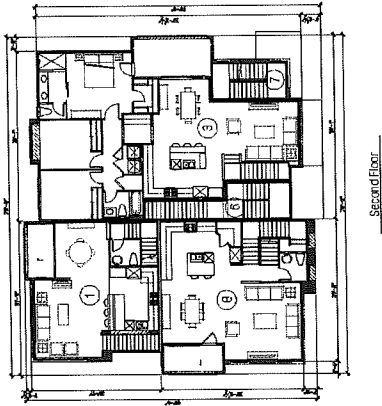
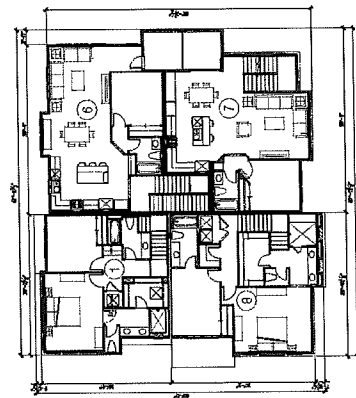
Project C:\Users\Scott\Docume
Date: Sat 6/25/16

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
206	★	Install 2nd Tot Lot playground	140 days	Mon 4/15/19	Fri 10/25/19	6/12
207	★	Last Unit Closing (average - 1.5 unit per week)	150 days	Thu 5/14/20	Wed 12/9/20	205
208	★	Phase 4 Production (32 Units)	240 days	Mon 6/15/20	Fri 5/14/21	
209	★	Start Foundations	0 days	Mon 6/15/20	Mon 6/15/20	
210	★	Construction	132 days	Mon 6/15/20	Tue 12/15/20	209
211	★	First Closing	1 day	Wed 12/16/20	Wed 12/16/20	210
212	★	Last Unit Closing (average - 1.5 unit per week)	107 days	Thu 12/17/20	Fri 5/14/21	211
213	★	Convert / Sale Models / Complete Project	65 days	Mon 4/12/21	Fri 7/9/21	
214	★	Remove Model Furniture/ Hang Doors Complete all Items for Occupancy	25 days	Mon 4/12/21	Fri 5/14/21	
215	★	Close all Model Homes	11 days	Mon 5/17/21	Mon 5/31/21	214
216	★	Site Work - R & R all Items / Complete final Punch list items - Final Acceptance	60 days	Mon 4/12/21	Fri 7/2/21	
217	★	FINAL ACCEPTANCE AND COMPLETION OF PROJECT	5 days	Mon 7/5/21	Fri 7/9/21	216

Task Split Milestone Summary Project Summary Inactive Task Inactive Milestone	Inactive Summary Manual Task Duration-only Manual Summary Rollup Manual Summary Start-only Finish-only	External Tasks External Milestone Deadline Progress Manual Progress
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Project: C:\Users\Scott\Docume
Date: Sat 6/25/16

CONCEPTUAL DESIGN PLANS



5 PLEX
Floor Plates (Elev. A)
Miraflores
Richmond, CA



May 16, 2016
A1.1
2015198



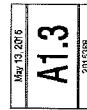
L

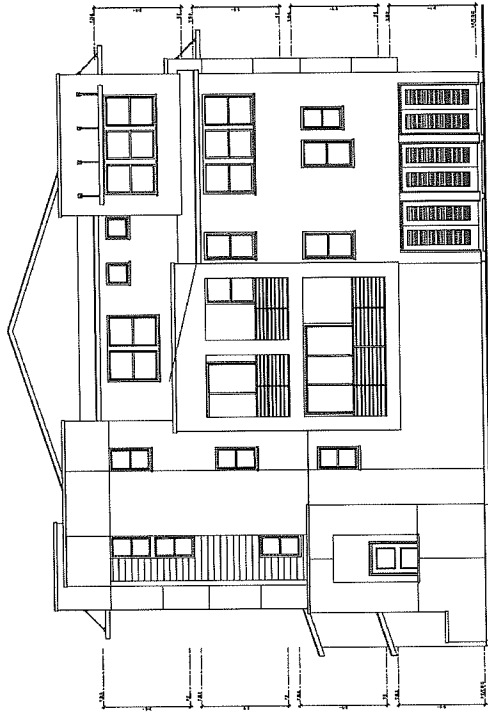


Front Elevation

5 Plex
Elevation A

Miraflores
Richmond, CA





Right Elevation



Left Elevation

5 Plex
Elevation A

Miraflores
Richmond, CA

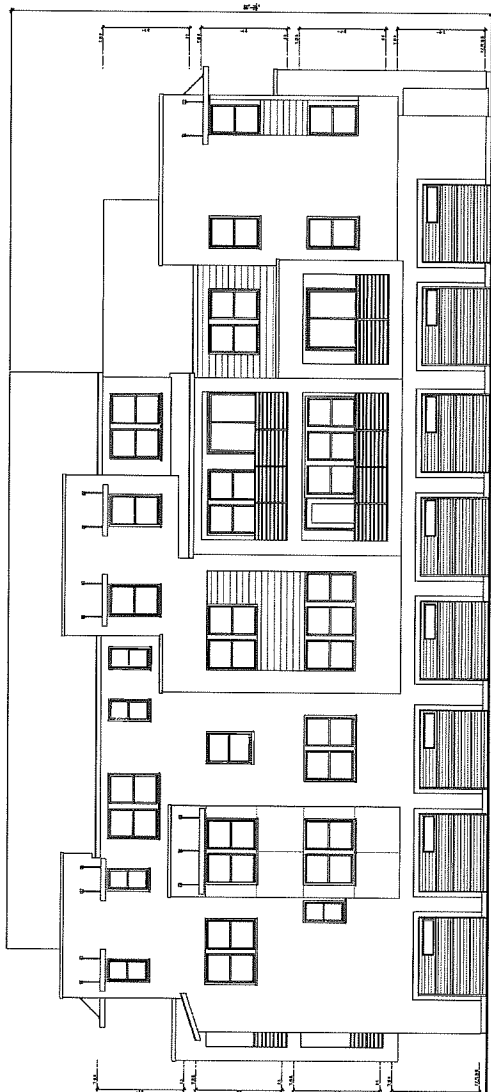


May 13, 2010
A1.4
 2015109

2015109 - Miraflores - Richmond, CA



L

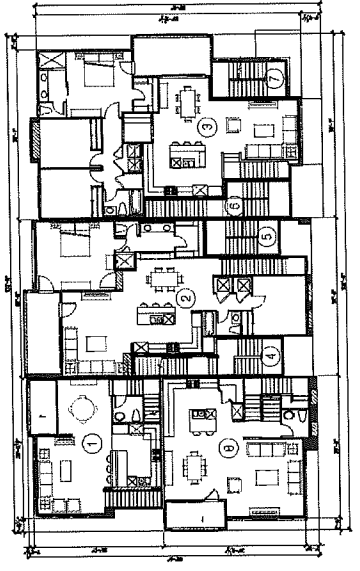


Rear Elevation

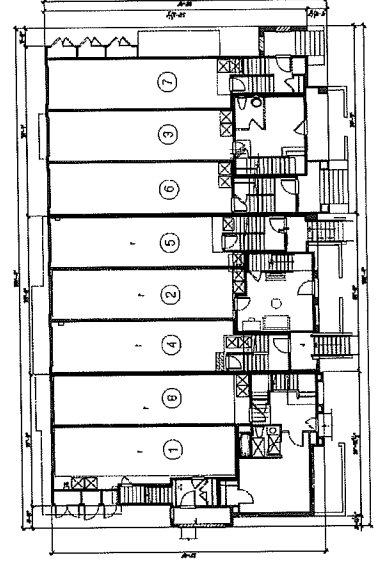
8 Plex
SECTION A

Miraflores
Richmond, CA

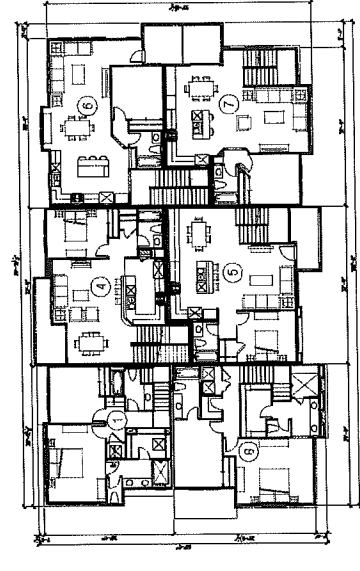




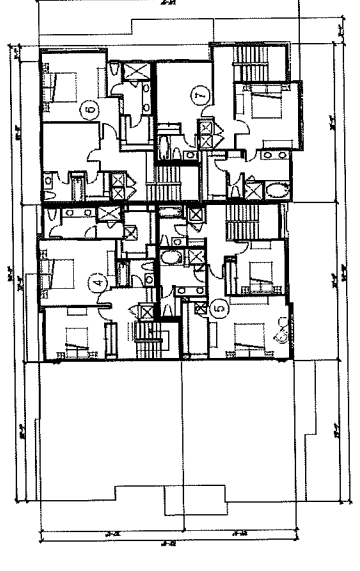
Second Floor



First Floor



Third Floor



Fourth Floor

2015108 - Miraflores - Richmond, CA

May 16, 2016
A2.1
2015108

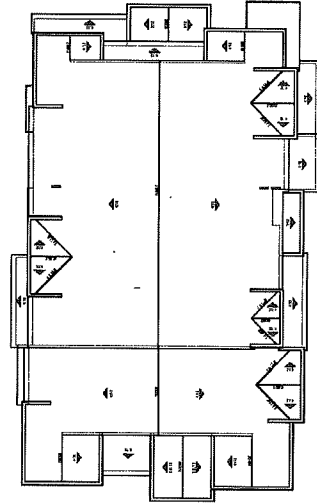


8 PLEX
Floor Plans (EPR. A)
Miraflores
Richmond, CA

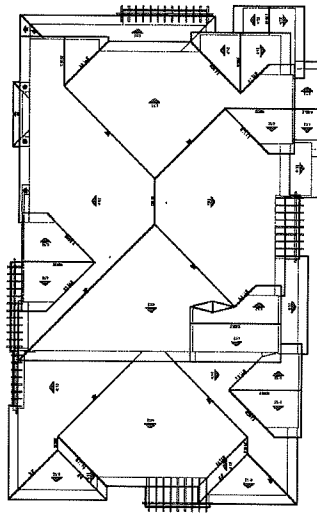


0 6 12 24
Feet (Not to Scale)

L



Elevation A
Roof Plan



Elevation B
Roof Plan

20153360 - 09/01/15 - Richmond, CA

May 15, 2015
A2.2
20153360



8 Plex
Roof Plans

Miraflores
Richmond, CA





Front Elevation

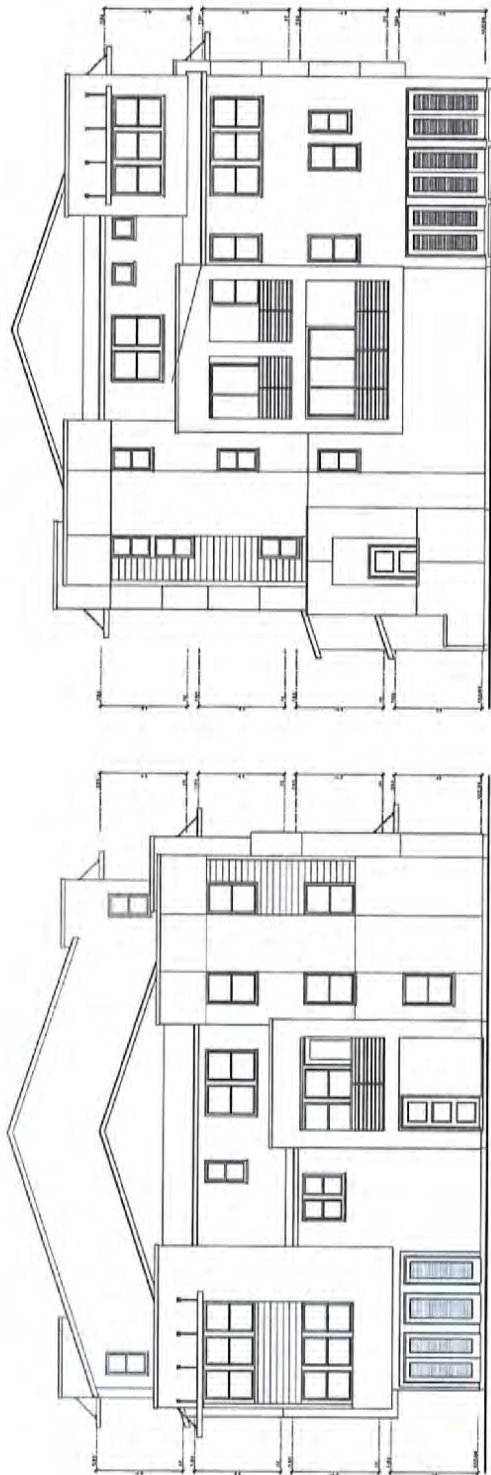
8 Plex
ELEVATION A

Miraflores
Richmond, CA



201509 - Miraflores - Richmond, CA
 May 13, 2016
A2.3
 201509





Right Elevation

Left Elevation

8 Plex
Elevation A

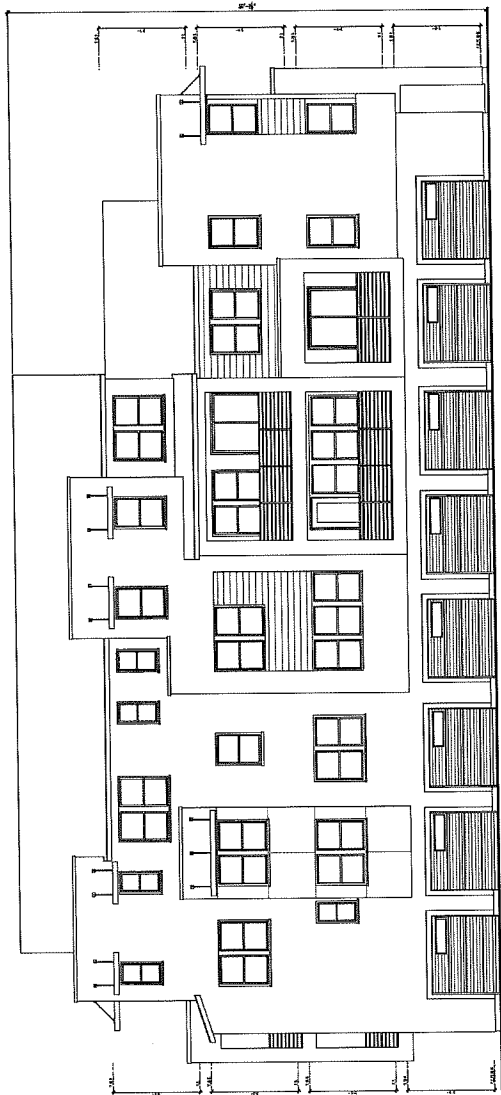
Miraflores
Richmond, CA



May 12, 2019
A2.4
 201508

201508 - Miraflores - Richmond, CA





Rear Elevation

8 Plex
ELEVATION A

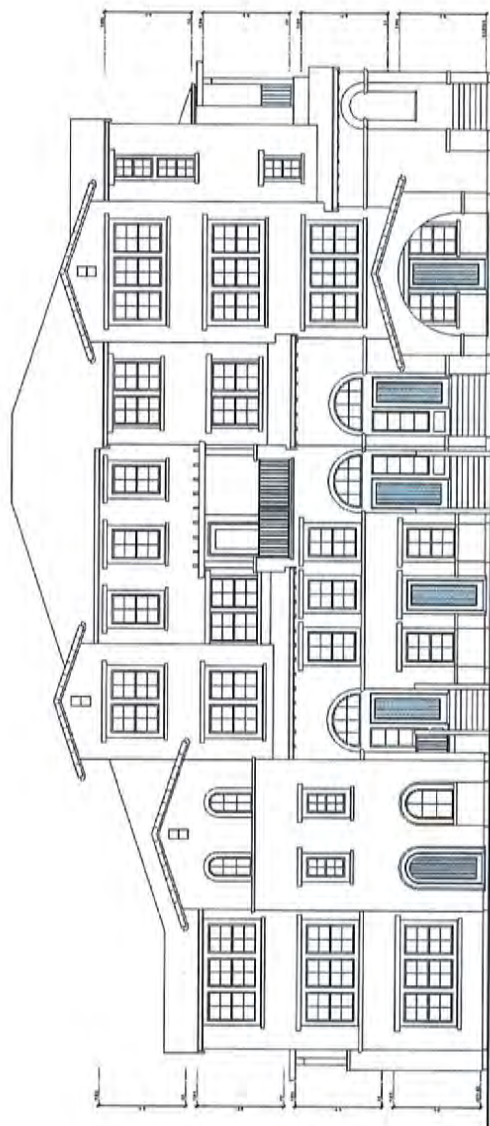
Miraflores
Richmond, CA

20150588 - Miraflores - Richmond, CA

May 13, 2016
A2.5
20150588

WILSON HERRERA ARCHITECTS
 1000 14th Street, Suite 100
 Richmond, CA 94801
 Tel: (415) 881-1111
 Fax: (415) 881-1112
 www.wilsonherra.com





Front Elevation

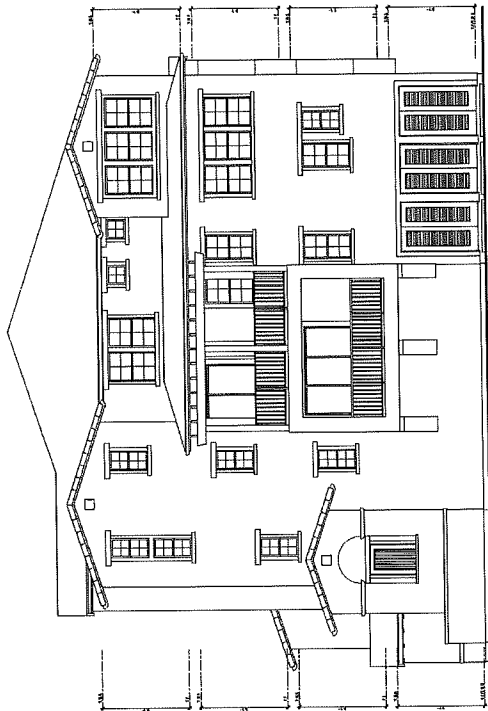
8 Plex
SECTION B

Miraflores
Richmond, CA

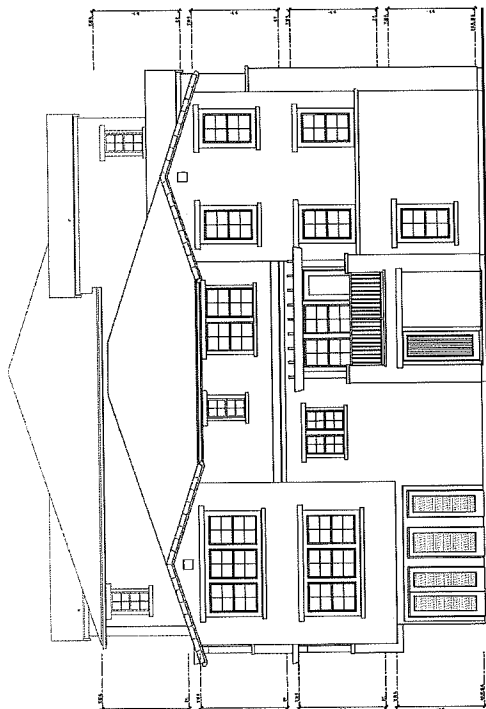


281026 - Miraflores - Richmond, CA
May 13, 2015
A2.6
2015.006





Right Elevation



Left Elevation

8 Plex
Elevation B

Miraflores
Richmond, CA

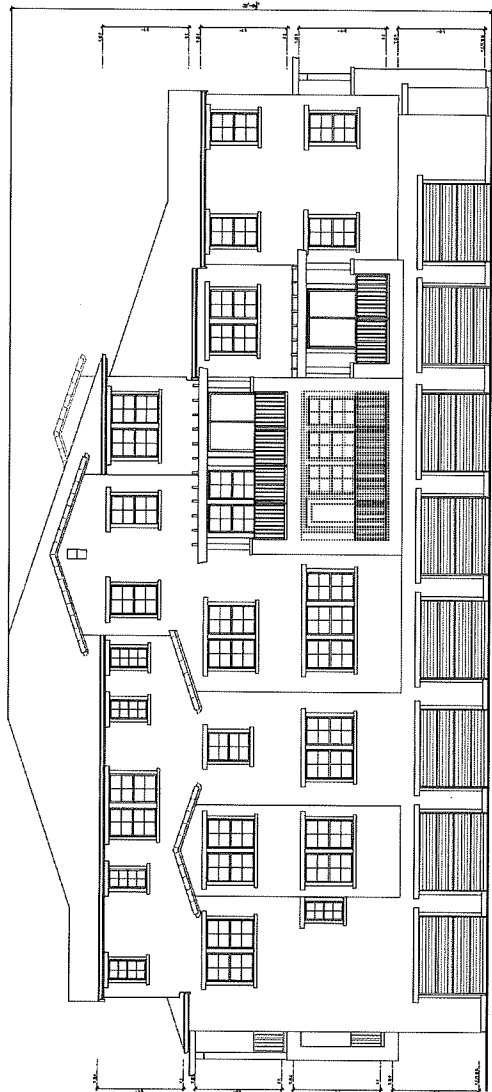


May 13, 2016
A2.7
 201508

2015108 - Miraflores - Richmond, CA



L



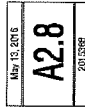
Rear Elevation

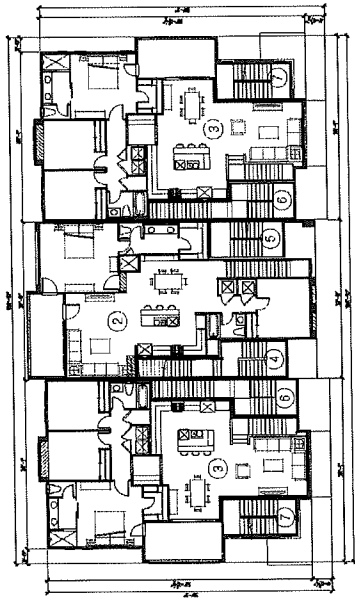
8 Plex
Elevation B

Miraflores
Richmond, CA

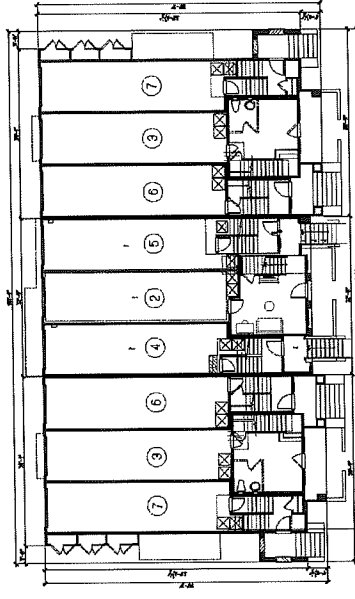


201503 - Miraflores - Richmond, CA

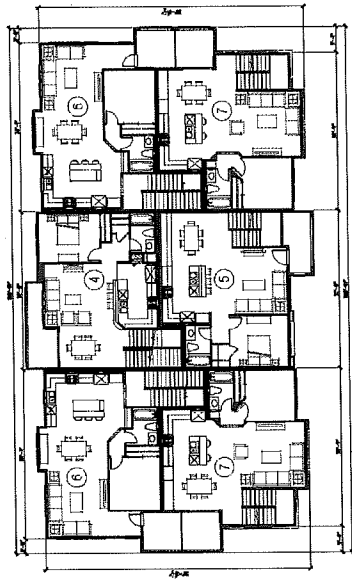




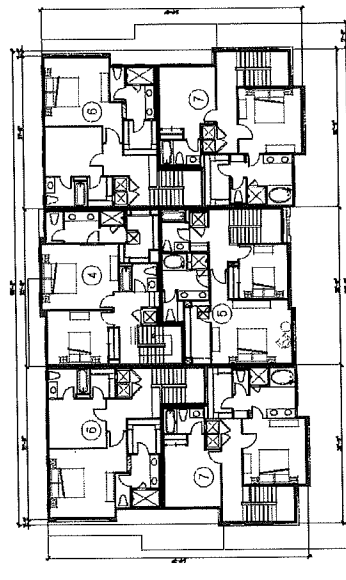
Second Floor



First Floor



Third Floor



Fourth Floor

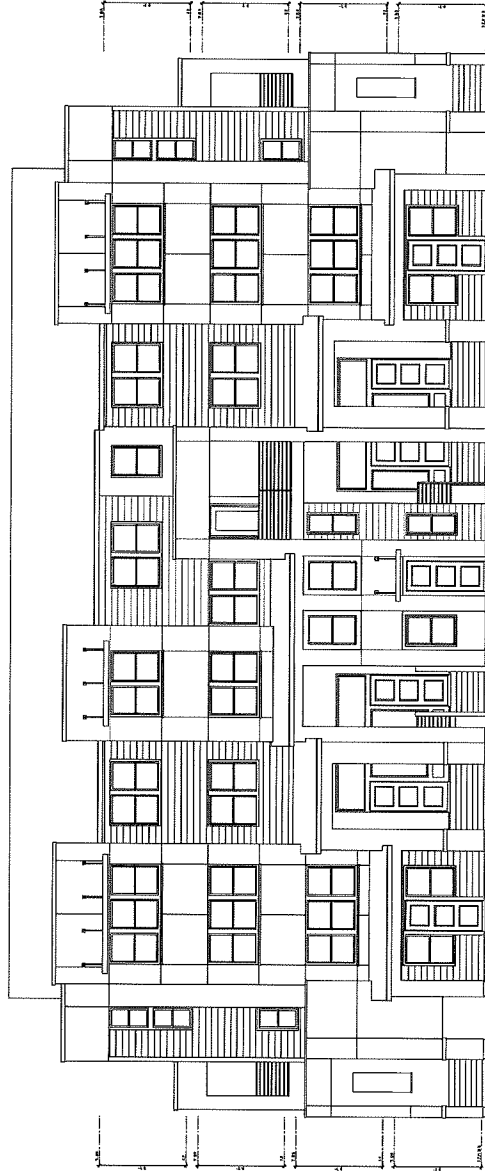
2015108 - Miraflores - Richmond, CA

May 13, 2016
A3.1
 2015108



9 Plex
 Floor Plans
Miraflores
 Richmond, CA

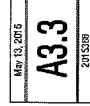




Front Elevation

9 Plex
Elevation A

Miraflores
Richmond, CA





Right Elevation

Left Elevation

9 Plex
Elevation A

Miraflores
Richmond, CA



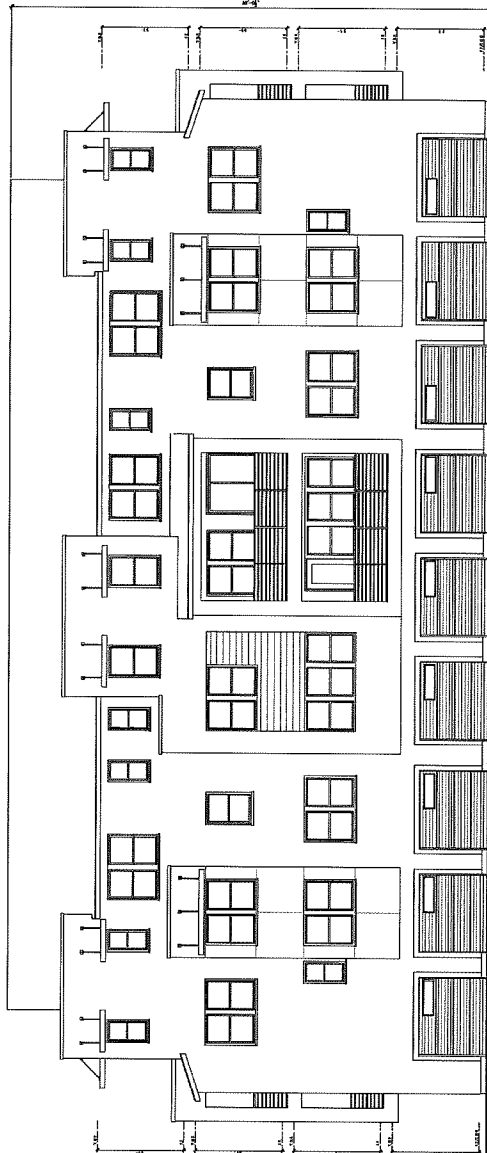
WILLIAM H. H. ARCHITECTS
ARCHITECTS
1000 RICHMOND STREET, SUITE 1000
RICHMOND, CA 94804
TEL: (415) 871-1100
WWW.WHHARCHITECTS.COM

May 13, 2016
A3.4
201508

201508 - Miraflores - Richmond, CA



0 4 8 12
Feet
Civil/Architectural Products, Inc.



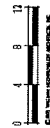
Rear Elevation

9 Plex
Elevation A

Miraflores
Richmond, CA



2013389
A3.5
May 13, 2016





Front Elevation

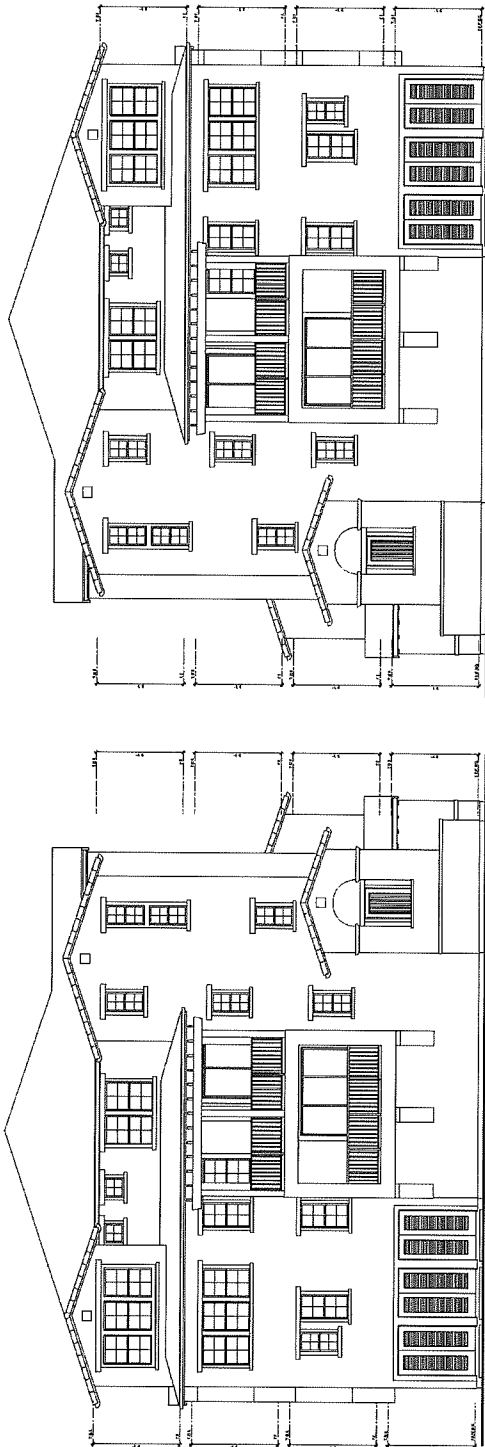
9 Plex
Separation

Miraflores
Richmond, CA



201503 - Miraflores - Richmond, CA
Date: 12.2015
A3.6
2015036



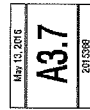


Right Elevation

Left Elevation

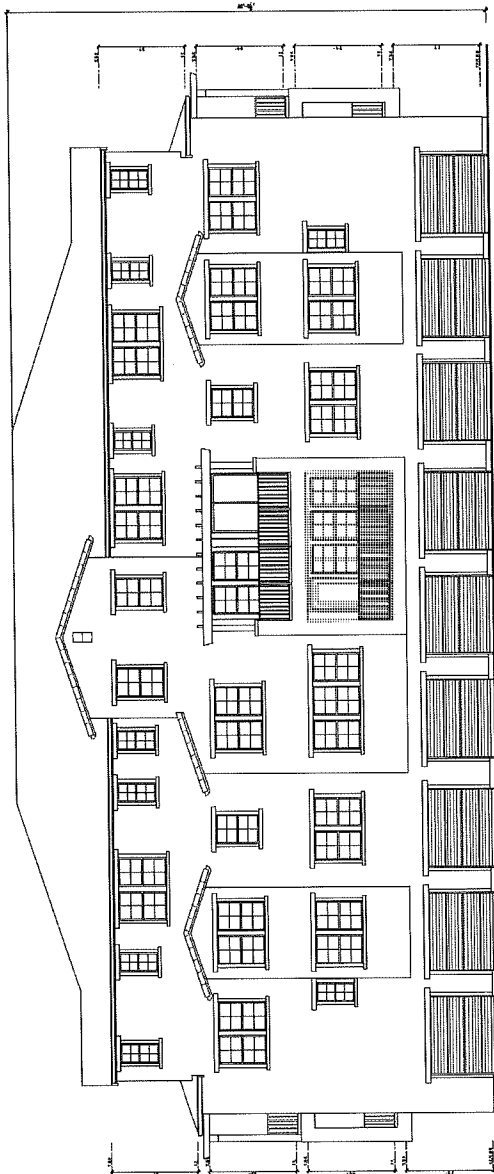
9 Plex
Elevation B

Miraflores
Richmond, CA



2015380 - Miraflores - Richmond, CA





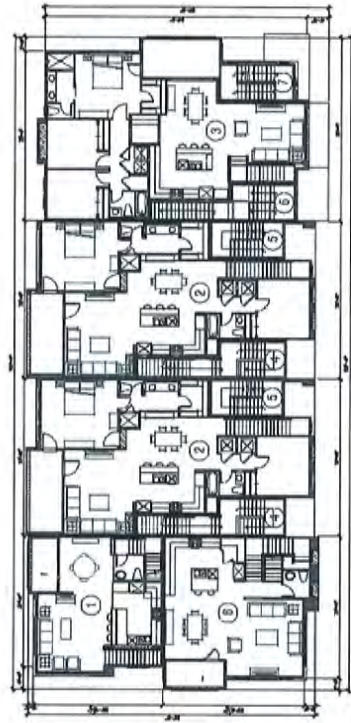
Rear Elevation

9 Plex
Elevation B

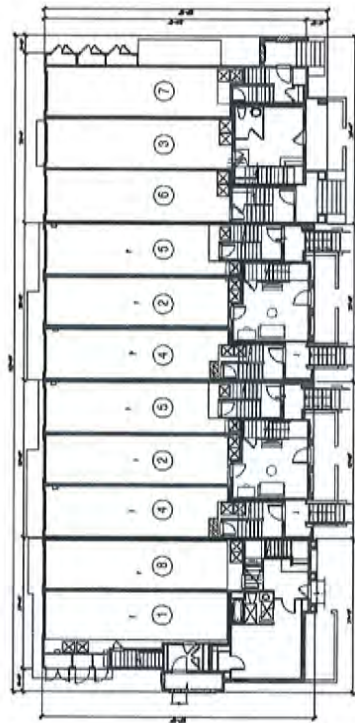
Miraflores
Richmond, CA



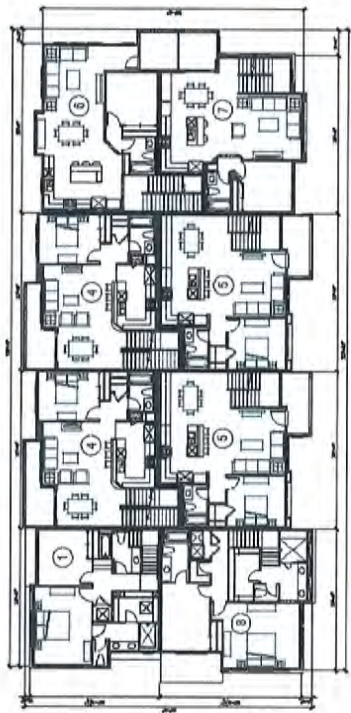
201508 - Miraflores - Richmond, CA
May 15, 2016
A3.8
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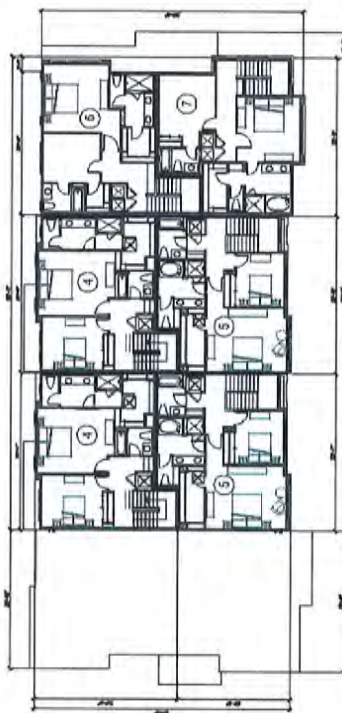
Second Floor



First Floor



Third Floor



Fourth Floor

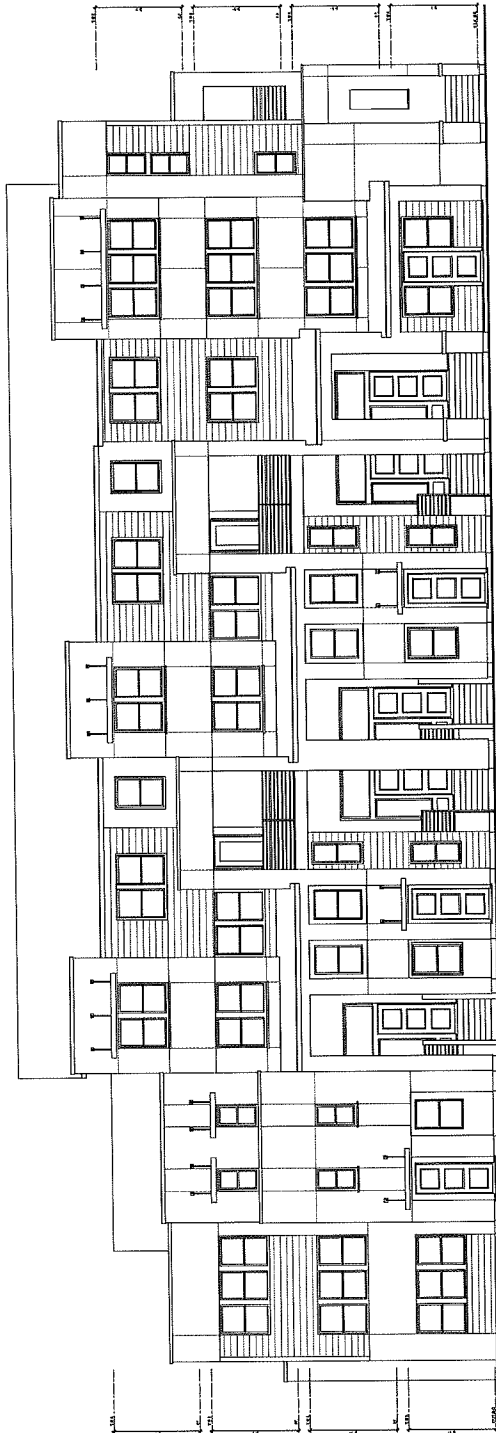
Miraflores
 Richmond, CA ■ Miraflores Community Devco

11-Plex Floor Plans

0 5 10 20 30
 Feet

PROJECT NO. 11-11
 2011-2012
 11-11 PLEX
 11-11 PLEX

March 20, 2014
A4.1



Front Elevation

11 Plex
Elevation A

Miraflores
Richmond, CA



May 15, 2018
A4.3
2015308

20153100 - Miraflores - Richmond, CA



Right Elevation

Left Elevation

11 Plex
Elevation A

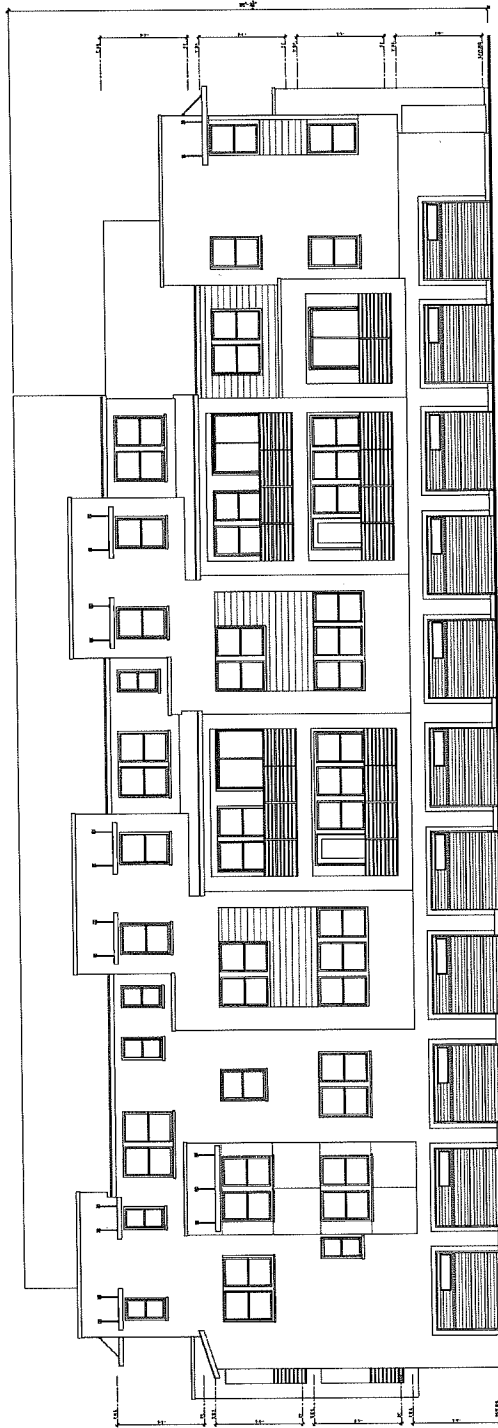
Miraflores
Richmond, CA



Mar 15, 2018
A4.4
201508

201510 - Miraflores - Richmond, CA





Rear Elevation

11 Plex
Elevation A

Miraflores
Richmond, CA



2015288 - Miraflores - Richmond, CA
 May 13, 2015
A4.5
 2015288





Front Elevation

11 Plex
Berkeley

Miraflores
Richmond, CA

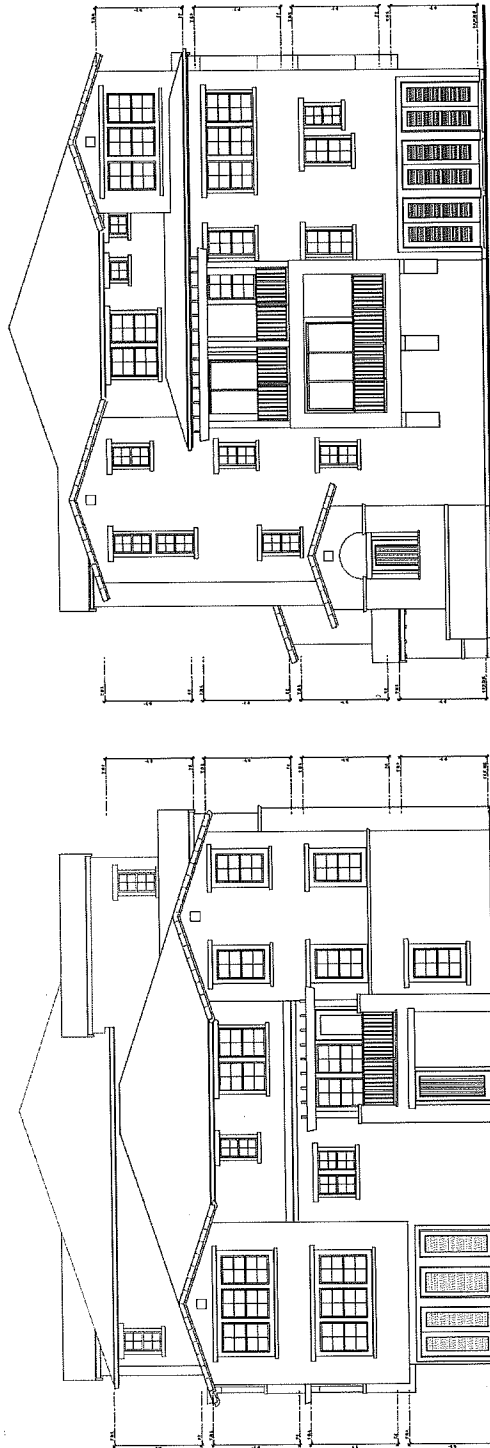


May 15, 2015
A4.6
 201508

201505 - English - Richmond, CA



L



Right Elevation

Left Elevation

11 Plex
Elevation 8

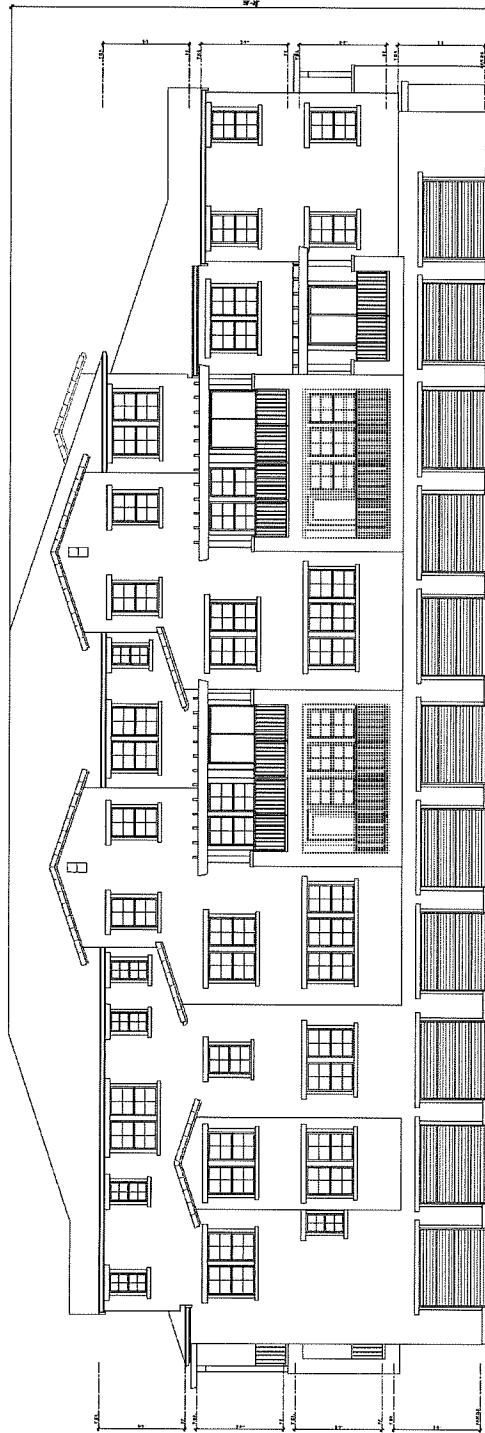
Miraflores
Richmond, CA



May 13, 2016
A4.7
2015038

2015038 - Miraflores - Richmond, CA

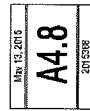


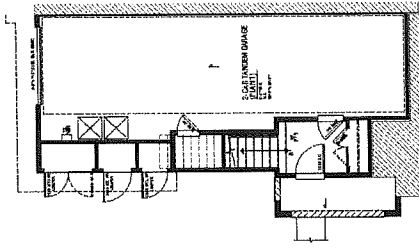


Rear Elevation

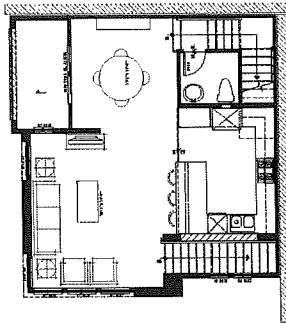
11 Plex
Elevation

Miraflores
Richmond, CA

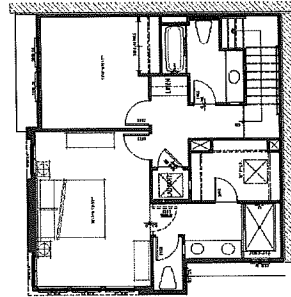




First Floor



Second Floor



Third Floor

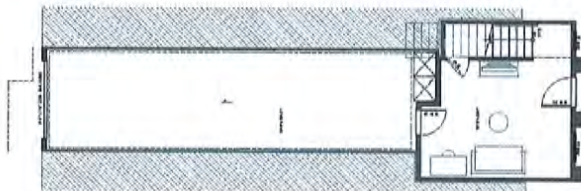
Plan 1
 1088 SF Total
 2 BR / 2.5 BA / 2 Car Garage

Miraflores
 Richmond, CA

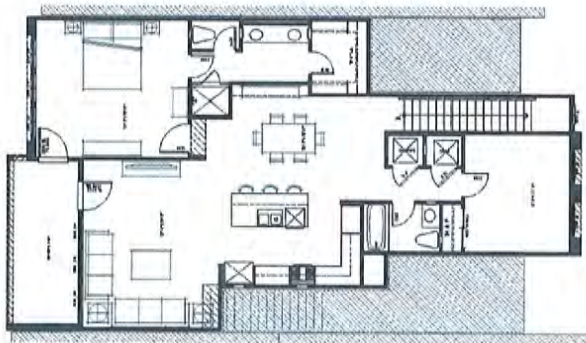
May 16, 2016
A5.1
 20153388



20153388 - Miraflores - Richmond, CA



First Floor



Second Floor

Plan 2
 1540 SF Total
 2 BR / 2 BA / Den / 2 Car Garage

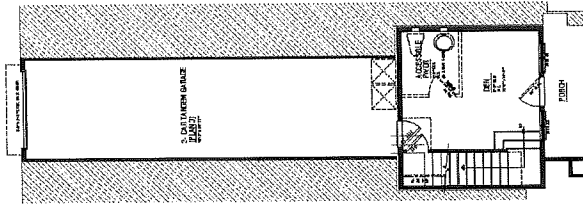
Miraflores
 Richmond, CA



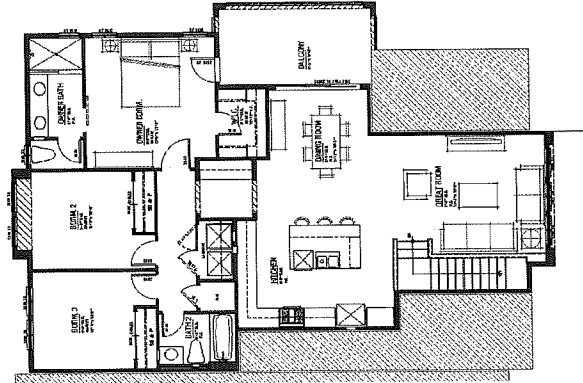
Date: 12.2016 A5.2 201508
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2015103 - Miraflores - Richmond, CA





First Floor
100'0"



Second Floor
100'0"

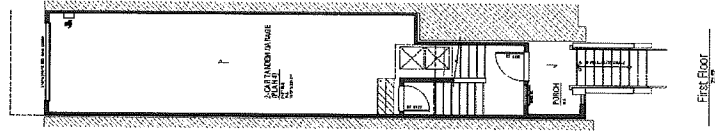
Plan 3
 1041 SF Total
 3 BR/2 BA/7 DR/12 Car Garage

Miraflores
 Richmond, CA

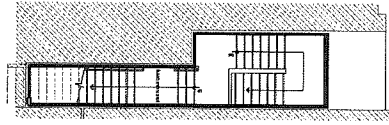


20151593 - Miraflores - Richmond, CA
 May 16, 2016
A5.3
 2015398

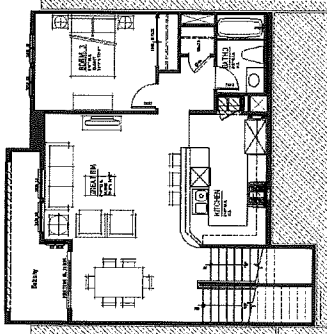




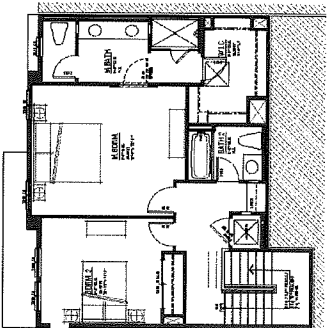
First Floor



Second Floor



Third Floor



Fourth Floor

201510 - Miraflores - Richmond, CA

May 16, 2015
A5.4
 201510B

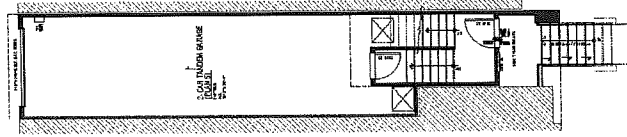


Plan 4
 1713 SF Total
 3 BR, 3 BA, 2 Car Garage

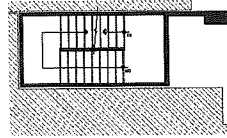
Miraflores
 Richmond, CA



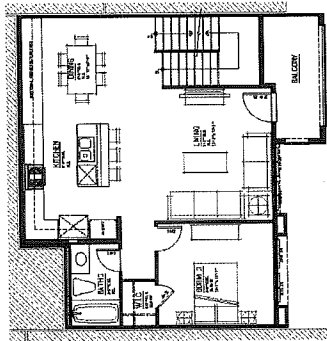
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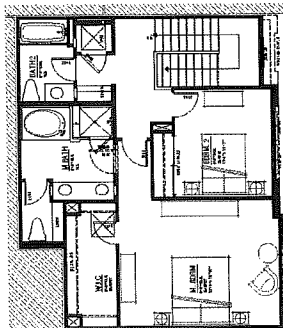
First Floor
1st



Second Floor
2nd



Third Floor
3rd



Fourth Floor
4th

2015108 - Miraflores - Richmond, CA

Rev. 16, 2016
A5.5
2015108

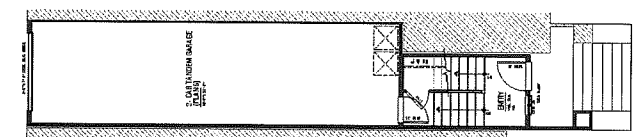
W
 WILLIAM HERRERA ARCHITECT
 ARCHITECTS
 1000 S. GARDEN STREET, SUITE 100
 RICHMOND, CALIFORNIA 94804
 TEL: 510.861.1111
 WWW.WHARCHITECTS.COM

Plan 5
 176 SF Floor
 3 BR / 3 BA / 2 Car Garage

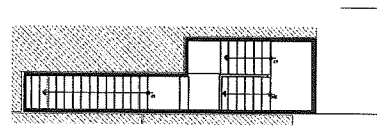
Miraflores
 Richmond, CA



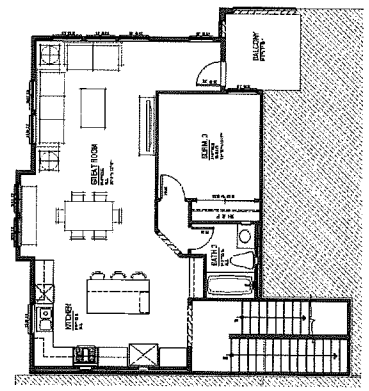
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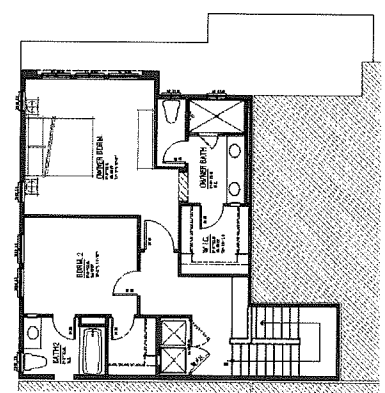
First Floor
No. 1



Second Floor
No. 2



Third Floor
No. 3



Fourth Floor
No. 4

20153589 - 16/Floor - Richmond, CA

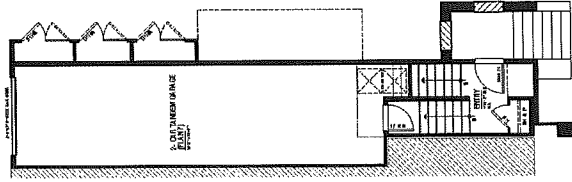
May 15, 2016
A5.6
20153589

W
WALTON
ARCHITECTS
INC.
1000 RICHMOND AVENUE
RICHMOND, CA 94804
TEL: 510.861.1100
WWW.WALTONARCHITECTS.COM

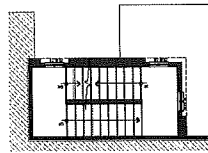
Plan 6
1926 SF Total
3 BR / 3 BA / 2 Car Garage

Miraflores
Richmond, CA

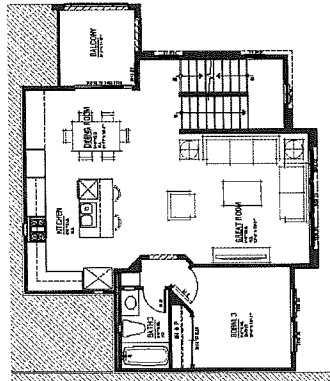




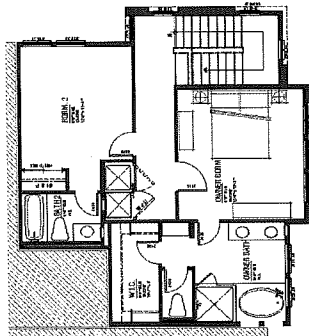
First Floor
1427



Second Floor
817



Third Floor
833



Fourth Floor
827

Plan 7
1,820 SF TOTAL
3 BR / 3 BA / 2 Car Garage

Miraflores
Richmond, CA



WILSON WOODWORKING
10000 WILSON ROAD
RICHMOND, CA 94804
TEL: 510.261.1111
WWW.WILSONWOODWORKING.COM

May 16, 2010
A5.7
20112198

20115088 - Miraflores - Richmond, CA



0 4 8 12
Feet



Third Floor

Second Floor

First Floor

Plan 8
 2024 SF TOB
 2 BR / 35 BR / Den / 2 Car Garage

Miraflores
 Richmond, CA



May 12, 2015	A5.8	2412300

201505 - 10/15/15 - (Miraflores) - Richmond, CA



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**EXHIBIT 2.3
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

SCHEDULE OF PERFORMANCE

[See Attached]

SCHEDULE OF PERFORMANCE

This Schedule of Performance summarizes the schedule for various activities under the Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), dated as of July 19, 2016 (the “DDA”) to which this exhibit is attached. The description of items in this Schedule of Performance is meant to be descriptive only, and shall not be deemed to modify in any way the provisions of the DDA to which such items relate. Section references herein to the DDA are intended merely as an aid in relating this Schedule of Performance to other provisions of the DDA and shall not be deemed to have any substantive effect.

Whenever this Schedule of Performance requires the submission of plans or other documents at a specific time, such plans or other documents, as submitted, shall be complete and adequate for review by the Agency or other applicable governmental entity within the time set forth herein. Prior to the time set forth for each particular submission, Developer shall consult with Agency staff informally as necessary concerning such submission in order to ensure that such submission will be complete and in a proper form within the time for submission set forth herein. Obligations that are subject to extension for Force Majeure Delay pursuant to **Section 11.3** of the DDA are as set forth in this Schedule of Performance.

<u>Action</u>	<u>Date</u>	<u>Applicability of Force Majeure Delay</u>
Items 1-21 Relate to Developer Actions and Requirements as set forth in Article 2		
1. <u>Due Date – Additional Deposit.</u> Developer shall deposit into escrow the Additional Deposit. [DDA §2.2]	Not later than five (5) business days after the Effective Date.	Not applicable (“N/A”).
2. <u>Due Date – Discretionary Additional Project Approvals.</u> Developer shall apply for all Discretionary Additional Project Approvals. [DDA §2.3.1]	Not later than thirty (30) days after the Effective Date.	N/A.
3. <u>Due Date – Discretionary Additional Project Approvals.</u> Developer shall obtain all Discretionary Additional Project Approvals. [DDA §2.3.1]	Not later than ninety (90) days before the Drop Dead Date.	N/A.
4. <u>Due Date – All Other Additional Project Approvals.</u> Developer shall apply for all other Additional Project Approvals necessary for construction of the Project. [DDA §§2.3.1 and 4.6.1.10]	Not later than thirty (30) days after Discretionary Additional Project Approvals are granted.	N/A.

<u>Action</u>	<u>Date</u>	<u>Applicability of Force Majeure Delay</u>
<p>5. <u>Due Date – All Other Additional Project Approvals.</u> A. Developer shall obtain all other Additional Project Approvals necessary for construction of the Project and the issuance of Building Permits shall be subject only to payment of necessary fees. B. Developer shall obtain Building Permits. [DDA §§2.3.1 and 4.6.1.10]</p>	<p>A. Not later than thirty (30) days before the Drop Dead Date. B. Not more than ten (10) days after the Closing.</p>	N/A.
<p>6. <u>Submittal – Proposed Financing Plan.</u> Developer shall submit to Agency Developer’s Proposed Financing Plan. [DDA §2.4.1]</p>	Attached as Exhibit 2.4.1.	N/A.
<p>7. <u>Submittal – Final Financing Plan.</u> A. In the event that, following the Effective Date, there is any material change, modification, revision, or alteration to the information or terms set forth in the Proposed Financing Plan, Developer shall submit to Agency a Proposed Final Financing Plan. B. In the event that Agency determines that receipt of confirmation or an update of information or terms set forth in the Final Financing Plan is reasonably necessary for Agency to be assured of the continued financial feasibility of the Project, Developer shall submit to Agency such confirmation or update. [DDA §2.4.2]</p>	<p>A. At least ninety (90) days prior to the Closing. B. Not more than fifteen (15) business days after receipt of Agency request for confirmation or update.</p>	N/A.
<p>8. <u>Review – Proposed Final Financing Plan.</u> Agency shall review a Proposed Final Financing Plan and shall either approve it or provide in writing specific reasons for the disapproval. [DDA §2.4.3]</p>	Within fifteen (15) business days after receipt.	N/A.
<p>9. <u>Submittal – Evidence of Availability of Funds.</u> Developer</p>	At least ten (10) business days prior to the Closing.	N/A.

<u>Action</u>	<u>Date</u>	<u>Applicability of Force Majeure Delay</u>
shall submit to Agency Evidence of Availability of Funds. [DDA §2.4.8]		
10. <u>Submittal – Proposed Final Plans.</u> Developer shall submit to Agency the Proposed Final Plans. [DDA §2.5.1]	Within one hundred twenty (120) days of the Effective Date.	N/A.
11. <u>Review – Proposed Final Plans.</u> Agency shall review the Proposed Final Plans and shall either approve it or provide in writing specific reasons for disapproval. [DDA §2.5.2]	Within fifteen (15) business days of receipt.	N/A.
12. <u>Submittal – Prime Construction Contract.</u> Developer shall submit to Agency Executive Director a copy of the Prime Construction Contract. [DDA §2.6.2]	Prior to the Closing.	N/A.
13. <u>Review – Prime Construction Contract.</u> Agency Executive Director shall review the Prime Construction Contract and either approve or disapprove the Prime Construction Contract. [DDA §2.6.2]	Within ten (10) days of submission of the Prime Construction Contract.	N/A.
14. <u>Submittal – Completion Guaranty.</u> Developer shall deliver to Agency the Completion Guaranty executed by an Acceptable Guarantor. [DDA §2.7.1]	At least five (5) business days prior to the Closing.	N/A.
15. <u>Submittal – Assignment of Developer Agreements, Plans and Approvals.</u> Developer shall deliver to Agency an executed Assignment of Developer Agreements, Plans and Approvals. [DDA §2.7.2]	Within ten (10) days of the Effective Date.	N/A.
16. <u>Submittal – Initial Project Performance and Payment Security.</u> Developer shall furnish to Agency Project Performance and Payment Security. [DDA §2.7.3]	At least five (5) business days prior to the Closing.	N/A.

<u>Action</u>	<u>Date</u>	<u>Applicability of Force Majeure Delay</u>
17. <u>Submittal – Preliminary HOA Documents.</u> Developer shall submit to Agency for approval the Preliminary HOA Documents. [DDA §2.8]	Prior to the date of any Additional Project Approval granted by City for the first final map or parcel map for the Project.	N/A.
18. <u>Review – Preliminary HOA Documents.</u> Subject to timely submittal by Developer, Agency shall review the Preliminary HOA Documents and either approve or disapprove the Preliminary HOA Documents in writing. [DDA §2.8]	Prior to the date of any Additional Project Approval granted by City for the first final map or parcel map for the Project.	N/A.
19. <u>Submittal – Certificate of Readiness.</u> Developer shall submit to Agency a Certificate of Readiness. [DDA §2.9]	Prior to the Closing.	N/A.
20. <u>Submittal – Progress Reports.</u> Developer shall submit to Agency monthly Progress Reports. [DDA §2.10]	Commencing two (2) months from the Effective Date and not later than the tenth (10 th) day of every other month until Completion of the Project.	N/A.
21. <u>Due Date – Outside Date for Satisfaction of all Article 2 Conditions.</u> [DDA §2.1]	Drop Dead Date.	N/A.
Items 22-23 Relate to Agency Actions and Requirements as set forth in Article 3.		
22. <u>Review – Environmental Review.</u> Subject to timely application by Developer, Agency shall use diligent good faith efforts to complete or cause City to complete, as applicable, any environmental review of any Additional Project Approvals as may be required pursuant to CEQA and/or other Applicable Law. [DDA §3.2]	By not later than Drop Dead Date.	N/A.
23. <u>Due Date – Outside Date for Satisfaction of all Article 3 Conditions.</u> [DDA §3.1]	Drop Dead Date.	N/A.
Items 24-28 Relate to the Closing as set forth in Article 4.		

<u>Action</u>	<u>Date</u>	<u>Applicability of Force Majeure Delay</u>
24. <u>Open Escrow.</u> To accomplish conveyance of the Property, the Parties shall establish an Escrow with the Escrow Holder. [DDA §4.3.1]	Promptly following execution of DDA.	N/A.
25. <u>Deposits into Escrow.</u> Developer shall deposit into Escrow the Developer Closing Funds and Documents. [DDA §4.4.1]	At least two (2) business days prior to the Closing.	N/A.
26. <u>Deposits into Escrow.</u> Agency shall deposit into Escrow the Agency Closing Funds and Documents. [DDA §4.4.2]	At least two (2) business days prior to the Closing.	N/A.
27. <u>Closing.</u> Agency shall convey the Property to Developer and receive the balance of the Purchase Price. [DDA §§4.3.2 and 4.5]	Within thirty (30) days after the Closing Condition Satisfaction Date, but in no event later than January 6, 2018.	N/A.
28. <u>Submittal – Evidence of Insurance.</u> Developer shall submit to Agency evidence of insurance coverages meeting requirements of Section 6.8. [DDA §§4.6.1.14 and 4.10.4.1]	Prior to the Closing and prior to any entry upon the Property under Temporary Right of Entry.	N/A.
Items 29 – 46 Relate to the Construction of the Project as set forth in Article 5.		
29. <u>Developer Commencement of Construction of the Site Improvement Phase.</u> Developer shall Commence Construction of the Site Improvement Phase and eight (8) model Residential Units. [DDA §5.1]	Not later than March 30, 2017.	Applicable.
30. <u>Developer Completion of Construction of the Site Improvement Phase.</u> Developer shall Complete Construction of the Site Improvement Phase and eight (8) model Residential Units.	Not later than November 14, 2017.	Applicable.
31. <u>Developer Commencement of Construction of First Vertical Improvement Phase.</u> Developer	Not later than June 5, 2017.	Applicable.

<u>Action</u>	<u>Date</u>	<u>Applicability of Force Majeure Delay</u>
shall Commence Construction of the first Vertical Improvement Phase (including the first forty-five (45) Residential Units). [DDA §5.1]		
32. <u>Developer Completion of First Vertical Improvement Phase.</u> Developer shall Complete Construction of the first Vertical Improvement Phase. [DDA §5.1]	Not later than July 4, 2018.	Applicable.
33. <u>Developer Commencement of Second Vertical Improvement Phase.</u> Developer shall Commence Construction of the second Vertical Improvement Phase (including the next sixty-one (61) Residential Units and Historic Resources). [DDA §5.1]	Not later than January 24, 2018.	Applicable.
34. <u>Developer Completion of Second Vertical Improvement Phase.</u> Developer shall Complete Construction of the second Vertical Improvement Phase. [DDA §5.1]	Not later than May 8, 2019.	Applicable.
35. <u>Developer Commencement of Third Vertical Improvement Phase.</u> Developer shall Commence Construction of the third Vertical Improvement Phase (including the next forty-four (44) Residential Units). [DDA §5.1]	Not later than November 11, 2019.	Applicable.
36. <u>Developer Completion of Third Vertical Improvement Phase.</u> Developer shall Complete Construction of the third Vertical Improvement Phase. [DDA §5.1]	Not later than December 9, 2020.	Applicable.
37. <u>Developer Commencement of Fourth Vertical Improvement Phase.</u> Developer shall Commence Construction of the fourth Vertical Improvement Phase (including the next thirty-two (32) Residential Units). [DDA §5.1]	Not later than June 15, 2020.	Applicable.

<u>Action</u>	<u>Date</u>	<u>Applicability of Force Majeure Delay</u>
38. <u>Developer Completion of Fourth Vertical Improvement Phase.</u> Developer shall Complete Construction of the fourth Vertical Improvement Phase. [DDA §5.1]	Not later than May 14, 2021.	Applicable.
39. <u>Developer Completion of Construction of the Project.</u> Developer shall Complete Construction of the Project (without modification of dates for Commencement and Completion of Construction of any Construction Phases as set forth in Items 29 through 38, inclusive, above). [DDA §5.1]	Not later than July 9, 2021.	Applicable.
40. <u>Submittal – Initial Project Performance and Payment Security.</u> Developer shall submit, or cause Prime Contractor to Submit, to Agency the Initial Project Performance and Payment Security. [DDA §5.6.1]	At least five (5) business days prior to the Closing.	N/A.
41. <u>Submittal – Subsequent Project Performance and Payment Security.</u> Developer shall submit, or cause Prime Contractor to Submit, to Agency the Subsequent Project Performance and Payment Security. [DDA §5.6.2]	Prior to City issuance of a Building Permit for each subsequent Vertical Improvement Phase.	N/A.
42. <u>Submittal – Site Improvement Warranty Security.</u> Developer shall submit to Agency the Site Improvement Warranty Security. [DDA §5.6.3]	Prior to City issuance of a Site Improvement Permit.	N/A.
43. <u>Submittal – Affordable Units Warranty Security.</u> Developer shall deliver to Agency the Affordable Units Warranty Security. [DDA §5.6.4]	Prior to issuance of any Certificate of Completion with respect to any portion of the Property containing any Affordable Units.	N/A.

<u>Action</u>	<u>Date</u>	<u>Applicability of Force Majeure Delay</u>
44. <u>Issuance – Certificate of Construction Phase Completion.</u> Agency shall issue to Developer a Certificate of Construction Phase Completion. [DDA §5.9.1]	Promptly after Completion of Construction of a particular Construction Phase.	N/A.
45. <u>Issuance – Certificate of Completion.</u> Agency shall issue to Developer a Certificate of Project Completion. [DDA §5.9.1]	Promptly after Completion of Construction of the Project.	N/A.
46. <u>Submittal – Completion Guarantor Update.</u> Developer shall cause each Completion Guarantor to provide to Agency reasonable and customary written evidence that the Completion Guarantor then has on hand (in the aggregate) at least Five Million Dollars (\$5,000,000.00). [DDA §5.11]	On or before July 1 of each year until Completion of the Project.	N/A.
Items 47 – 49 Relate to the Management of the Project as set forth in Article 6.		
47. <u>Submittal – Proposed Final HOA Documents.</u> Developer shall submit to Agency the Proposed Final HOA Documents. [DDA §6.3.2.1]	Not later than fifteen (15) business days before Developer submittal to BRE.	N/A.
48. <u>Review – Proposed Final HOA Documents.</u> Subject to timely submittal by Developer, Agency shall review the Proposed Final HOA Documents and either approve or disapprove the Proposed Final HOA Documents in writing. [DDA §6.3.2.1]	Within ten (10) business days after receipt.	N/A.
49. <u>Developer Establishment of Homeowners Association.</u> Developer shall establish one (or more) HOA(s) to own, perform, and fund ongoing obligations for Project Common Area. [DDA §6.3.2.1]	Not later than the date of closing for the first sale by Developer of a Residential Unit to the anticipated tenant thereof or earlier time as required by Applicable Law.	N/A.

**EXHIBIT 2.4.1
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

PROPOSED FINANCING PLAN

[See Attached]

PROPOSED FINANCING PLAN

The following Proposed Financing Plan is subject to the terms and conditions of the Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) by and between the Successor Agency to the Richmond Community Redevelopment Agency (“Agency”) and Miraflores Community Devco, LLC (“Developer”), dated July 19, 2016 (the “DDA”). All capitalized terms herein shall have the definitions assigned in the DDA. This Proposed Financing Plan is a proposed plan for financing all costs of acquisition of the Property and development, construction, and Residential Unit marketing and sales, of the Project in accordance with the terms and conditions of the DDA. Nothing in this Exhibit shall or shall be deemed to modify any of the other provisions of the DDA. This Proposed Financing Plan is subject to Agency approval of the Final Financing Plan in accordance with the provisions of Section 2.4 of the DDA.

The Project Financing will be through both cash and the Conventional Construction Loan through George Elkins Mortgage Bank. The Conventional Construction Loan shall consist of two (2) primary loans: 1) An infrastructure or development loan for construction of the Site Improvement Phase, and 2) A revolving construction loan for the construction of the Vertical Improvement Phases. The Conventional Construction Loan Closing with respect to the Site Improvement Phase and the first Vertical Improvement Phase (including all Site Improvements, construction of eight (8) model Residential Units and the first forty-five (45) Residential Units) shall occur simultaneously with the Close of Escrow, or, under certain conditions provided in Section 4.6.1.6 of the DDA, within forty five (45) days of the Close of Escrow. The Site Improvements development loan shall be in the amount of \$12,935,198. The peak capital loan for the revolving Vertical Improvements construction loan is \$18,850,196. Since the Vertical Improvements construction loan is a revolving line of credit and there are four (4) Vertical Improvement Phases, as Residential Units are sold to the anticipated or actual occupants thereof, the initial funds of the revolving Vertical Improvements construction loan shall be reused for the subsequent Vertical Improvement Phases until the last Residential Unit is constructed and sold to the anticipated or actual occupants thereof.

SUMMARY of SOURCES AND USES

SOURCES		USES	
Description	Amount	Description	Amount
CASH	\$6,059,761	PROPERTY	\$4,200,000
SITE IMPROVEMENTS LOAN	\$12,935,198	ERNA/DDA NEGOTIATION	\$544,761
REVOLVING VERTICAL IMPROVEMENTS LOAN	\$18,850,196	PROJECT APPROVALS	\$1,315,000
EQUITY FROM SALES OF RESIDENTIAL UNITS	\$45,467,654	SITE IMPROVEMENTS	\$9,595,000
		MODEL RESIDENTIAL UNIT CONSTRUCTION	\$2,655,162
		VERTICAL IMPROVEMENTS (excluding model Residential Units)	\$62,352,920
		FINANCING FEES	\$2,649,966
TOTAL SOURCES	\$83,312,809	TOTAL USES	\$83,312,809

SOURCES

Description	Budget	Total CF	Var (B-C)	Month																	
				Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17
Residential Unit Sales	\$ 85,170,539	\$ 85,170,539	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL SOURCES	\$ 85,170,539	\$ 85,170,539	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

USES

Description	Budget	Total CF	Var (B-C)	Month																				
				Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17			
Property Purchase	\$ 4,200,000	\$ 4,200,000	\$ -	\$ -	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
DDA Negotiation	\$ 544,761	\$ 544,761	\$ -	\$ 400,000	\$ 12,500	\$ 10,000	\$ 16,000	\$ 2,500	\$ 2,500	\$ 12,000	\$ 10,000	\$ 28,537	\$ 30,224	\$ 10,000	\$ 13,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Project Approvals	\$ 1,315,000	\$ 1,315,000	\$ -	\$ -	\$ -	\$ 15,000	\$ 15,000	\$ 37,000	\$ 21,500	\$ 31,000	\$ 83,833	\$ 26,000	\$ 83,833	\$ 83,833	\$ 138,833	\$ 188,833	\$ 138,833	\$ 133,833	\$ 133,833	\$ 133,833	\$ 133,833	\$ 133,833	\$ -	
Site Improvements	\$ 9,595,000	\$ 9,595,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Model Residential Unit Construction	\$ 2,655,162	\$ 2,655,162	\$ (0)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 541,448	
Vertical Improvements (excl. model units)	\$ 62,352,920	\$ 62,352,920	\$ 0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL EXPENSE	\$ 80,662,843	\$ 80,662,843	\$ (0)	\$ 400,000	\$ 212,500	\$ 25,000	\$ 31,000	\$ 39,500	\$ 33,500	\$ 41,000	\$ 54,537	\$ 114,057	\$ 93,833	\$ 151,833	\$ 288,833	\$ 138,833	\$ 133,833	\$ 133,833	\$ 133,833	\$ 133,833	\$ 133,833	\$ 133,833	\$ 133,833	\$ 1,831,448

PEAK DEBT	PEAK DATE	INT PAID
\$ 12,935,198	Oct-17	\$ (835,738)

SITE IMPROVEMENT LOAN	\$ (3,278,833)	May-18	\$ (5,126,675)
Loan Beg Bal	\$ -		\$ -
Loan Service 6% APR	\$ -		\$ (16,394)
Loan Repayment	\$ -		\$ -
Loan End Bal	\$ (3,295,228)		\$ (5,152,309)

PEAK DEBT	PEAK DATE	INT PAID
\$ 18,850,156	May-18	\$ (1,814,228)

REVOLVING VERTICAL IMPROVEMENTS LOAN	\$ -		\$ -
Loan Beg Bal	\$ -		\$ -
Loan Service 4% APR REVOLVER	\$ -		\$ -
Loan Repayment	\$ -		\$ -
Loan End Bal	\$ -		\$ -

PROJECT CASH FLOW AFTER DEBT	Month	Value
Cumulative CF	Aug-15	\$ (400,000)
	Sep-15	\$ (612,500)
	Oct-15	\$ (637,500)
	Nov-15	\$ (668,500)
	Dec-15	\$ (708,000)
	Jan-16	\$ (741,500)
	Feb-16	\$ (782,500)
	Mar-16	\$ (837,037)
	Apr-16	\$ (951,094)
	May-16	\$ (1,044,928)
	Jun-16	\$ (1,196,761)
	Jul-16	\$ (1,465,594)
	Aug-16	\$ (1,624,428)
	Sep-16	\$ (1,768,261)
	Oct-16	\$ (1,892,094)
	Nov-16	\$ (2,025,928)
	Dec-16	\$ (2,025,928)
	Jan-17	\$ (2,025,928)
	Feb-17	\$ (2,025,928)
	Mar-17	\$ (2,025,928)
	Apr-17	\$ (2,025,928)
	May-17	\$ (2,025,928)
	Jun-17	\$ (2,025,928)
	Jul-17	\$ (2,025,928)
	Aug-17	\$ (2,025,928)
	Sep-17	\$ (2,025,928)
	Oct-17	\$ (2,025,928)
	Nov-17	\$ (2,025,928)
	Dec-17	\$ (2,025,928)
	Jan-18	\$ (2,025,928)
	Feb-18	\$ (2,025,928)
	Mar-18	\$ (2,025,928)
	Apr-18	\$ (2,025,928)
	May-18	\$ (2,025,928)
	Jun-18	\$ (2,025,928)
	Jul-18	\$ (2,025,928)
	Aug-18	\$ (2,025,928)
	Sep-18	\$ (2,025,928)
	Oct-18	\$ (2,025,928)
	Nov-18	\$ (2,025,928)

ENTITY CASH FLOW ANALYSIS

PEAK CAPITAL	\$ 5,059,761
PEAK DATE	Dec-16
PROFIT	\$ 1,723,897
ROI	28.4%
IRR	6.7%

Month	Value
Feb-17	\$ -
Mar-17	\$ -
Apr-17	\$ -
May-17	\$ -
Jun-17	\$ -
Jul-17	\$ -
Aug-17	\$ -
Sep-17	\$ -
Oct-17	\$ -
Nov-17	\$ -
Dec-17	\$ -
Jan-18	\$ -
Feb-18	\$ -
Mar-18	\$ -
Apr-18	\$ -
May-18	\$ -
Jun-18	\$ -
Jul-18	\$ -
Aug-18	\$ -
Sep-18	\$ -
Oct-18	\$ -
Nov-18	\$ -

	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	
	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	
\$	-	-	-	-	-	-	-	-	-	-	1,949,080	2,246,930	3,156,540	3,162,070	3,024,448	2,722,930	2,101,280	2,465,130	2,214,279	779,217	2,172,770	
\$	-	-	-	-	-	-	-	-	-	-	1,949,080	2,246,930	3,156,540	3,162,070	3,024,448	2,722,930	2,101,280	2,465,130	2,214,279	779,217	2,172,770	
\$	1,250,000	1,885,000	1,250,000	695,000	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286
\$	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286	352,286
\$	1,369,720	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234	802,234
\$	1,642,286	2,237,286	3,012,006	1,849,520	1,154,320	1,154,320	3,014,450	2,005,586	2,005,586	2,005,586	1,956,754	1,956,754	753,403	2,083,208	1,506,806	1,506,806	753,403	2,640,961	1,859,091	1,859,091	1,859,091	1,105,689
\$	1,642,286	2,237,286	3,012,006	1,849,520	1,154,320	1,154,320	3,014,450	2,005,586	2,005,586	2,005,586	1,956,754	1,956,754	753,403	2,083,208	1,506,806	1,506,806	753,403	2,640,961	1,859,091	1,859,091	1,859,091	1,105,689

\$	(6,794,594)	\$	(10,753,469)	\$	(11,854,521)	\$	(12,266,079)	\$	(12,679,569)	\$	(12,743,094)	\$	(12,806,809)	\$	(12,870,844)	\$	(12,935,198)	\$	(13,000,491)	\$	(13,066,729)	\$	(13,133,971)	\$	(13,202,218)	\$	(13,270,471)	\$	(13,338,724)	\$	(13,406,977)	\$	(13,475,230)	\$	(13,543,483)	\$	(13,611,736)	\$	(13,680,000)	\$	(13,748,253)	\$	(13,816,506)	\$	(13,884,759)	\$	(13,953,012)	\$	(14,021,265)	\$	(14,089,518)	\$	(14,157,771)	\$	(14,226,024)	\$	(14,294,277)	\$	(14,362,530)	\$	(14,430,783)	\$	(14,499,036)	\$	(14,567,289)	\$	(14,635,542)	\$	(14,703,795)	\$	(14,772,048)	\$	(14,840,301)	\$	(14,908,554)	\$	(14,976,807)	\$	(15,045,060)	\$	(15,113,313)	\$	(15,181,566)	\$	(15,249,819)	\$	(15,318,072)	\$	(15,386,325)	\$	(15,454,578)	\$	(15,522,831)	\$	(15,591,084)	\$	(15,659,337)	\$	(15,727,590)	\$	(15,795,843)	\$	(15,864,096)	\$	(15,932,349)	\$	(16,000,602)	\$	(16,068,855)	\$	(16,137,108)	\$	(16,205,361)	\$	(16,273,614)	\$	(16,341,867)	\$	(16,410,120)	\$	(16,478,373)	\$	(16,546,626)	\$	(16,614,879)	\$	(16,683,132)	\$	(16,751,385)	\$	(16,819,638)	\$	(16,887,891)	\$	(16,956,144)	\$	(17,024,397)	\$	(17,092,650)	\$	(17,160,903)	\$	(17,229,156)	\$	(17,297,409)	\$	(17,365,662)	\$	(17,433,915)	\$	(17,502,168)	\$	(17,570,421)	\$	(17,638,674)	\$	(17,706,927)	\$	(17,775,180)	\$	(17,843,433)	\$	(17,911,686)	\$	(17,979,939)	\$	(18,048,192)	\$	(18,116,445)	\$	(18,184,698)	\$	(18,252,951)	\$	(18,321,204)	\$	(18,389,457)	\$	(18,457,710)	\$	(18,525,963)	\$	(18,594,216)	\$	(18,662,469)	\$	(18,730,722)	\$	(18,798,975)	\$	(18,867,228)	\$	(18,935,481)	\$	(19,003,734)	\$	(19,071,987)	\$	(19,140,240)	\$	(19,208,493)	\$	(19,276,746)	\$	(19,345,000)	\$	(19,413,253)	\$	(19,481,506)	\$	(19,549,759)	\$	(19,618,012)	\$	(19,686,265)	\$	(19,754,518)	\$	(19,822,771)	\$	(19,891,024)	\$	(19,959,277)	\$	(20,027,530)	\$	(20,095,783)	\$	(20,164,036)	\$	(20,232,289)	\$	(20,300,542)	\$	(20,368,795)	\$	(20,437,048)	\$	(20,505,301)	\$	(20,573,554)	\$	(20,641,807)	\$	(20,710,060)	\$	(20,778,313)	\$	(20,846,566)	\$	(20,914,819)	\$	(20,983,072)	\$	(21,051,325)	\$	(21,119,578)	\$	(21,187,831)	\$	(21,256,084)	\$	(21,324,337)	\$	(21,392,590)	\$	(21,460,843)	\$	(21,529,096)	\$	(21,597,349)	\$	(21,665,602)	\$	(21,733,855)	\$	(21,802,108)	\$	(21,870,361)	\$	(21,938,614)	\$	(22,006,867)	\$	(22,075,120)	\$	(22,143,373)	\$	(22,211,626)	\$	(22,279,879)	\$	(22,348,132)	\$	(22,416,385)	\$	(22,484,638)	\$	(22,552,891)	\$	(22,621,144)	\$	(22,689,397)	\$	(22,757,650)	\$	(22,825,903)	\$	(22,894,156)	\$	(22,962,409)	\$	(23,030,662)	\$	(23,098,915)	\$	(23,167,168)	\$	(23,235,421)	\$	(23,303,674)	\$	(23,371,927)	\$	(23,440,180)	\$	(23,508,433)	\$	(23,576,686)	\$	(23,644,939)	\$	(23,713,192)	\$	(23,781,445)	\$	(23,849,698)	\$	(23,917,951)	\$	(23,986,204)	\$	(24,054,457)	\$	(24,122,710)	\$	(24,190,963)	\$	(24,259,216)	\$	(24,327,469)	\$	(24,395,722)	\$	(24,463,975)	\$	(24,532,228)	\$	(24,600,481)	\$	(24,668,734)	\$	(24,736,987)	\$	(24,805,240)	\$	(24,873,493)	\$	(24,941,746)	\$	(25,010,000)	\$	(25,078,253)	\$	(25,146,506)	\$	(25,214,759)	\$	(25,283,012)	\$	(25,351,265)	\$	(25,419,518)	\$	(25,487,771)	\$	(25,556,024)	\$	(25,624,277)	\$	(25,692,530)	\$	(25,760,783)	\$	(25,829,036)	\$	(25,897,289)	\$	(25,965,542)	\$	(26,033,795)	\$	(26,102,048)	\$	(26,170,301)	\$	(26,238,554)	\$	(26,306,807)	\$	(26,375,060)	\$	(26,443,313)	\$	(26,511,566)	\$	(26,579,819)	\$	(26,648,072)	\$	(26,716,325)	\$	(26,784,578)	\$	(26,852,831)	\$	(26,921,084)	\$	(26,989,337)	\$	(27,057,590)	\$	(27,125,843)	\$	(27,194,096)	\$	(27,262,349)	\$	(27,330,602)	\$	(27,398,855)	\$	(27,467,108)	\$	(27,535,361)	\$	(27,603,614)	\$	(27,671,867)	\$	(27,740,120)	\$	(27,808,373)	\$	(27,876,626)	\$	(27,944,879)	\$	(28,013,132)	\$	(28,081,385)	\$	(28,149,638)	\$	(28,217,891)	\$	(28,286,144)	\$	(28,354,397)	\$	(28,422,650)	\$	(28,490,903)	\$	(28,559,156)	\$	(28,627,409)	\$	(28,695,662)	\$	(28,763,915)	\$	(28,832,168)	\$	(28,900,421)	\$	(28,968,674)	\$	(29,036,927)	\$	(29,105,180)	\$	(29,173,433)	\$	(29,241,686)	\$	(29,309,939)	\$	(29,378,192)	\$	(29,446,445)	\$	(29,514,698)	\$	(29,582,951)	\$	(29,651,204)	\$	(29,719,457)	\$	(29,787,710)	\$	(29,855,963)	\$	(29,924,216)	\$	(29,992,469)	\$	(30,060,722)	\$	(30,128,975)	\$	(30,197,228)	\$	(30,265,481)	\$	(30,333,734)	\$	(30,401,987)	\$	(30,470,240)	\$	(30,538,493)	\$	(30,606,746)	\$	(30,675,000)	\$	(30,743,253)	\$	(30,811,506)	\$	(30,879,759)	\$	(30,948,012)	\$	(31,016,265)	\$	(31,084,518)	\$	(31,152,771)	\$	(31,221,024)	\$	(31,289,277)	\$	(31,357,530)	\$	(31,425,783)	\$	(31,494,036)	\$	(31,562,289)	\$	(31,630,542)	\$	(31,698,795)	\$	(31,767,048)	\$	(31,835,301)	\$	(31,903,554)	\$	(31,971,807)	\$	(32,040,060)	\$	(32,108,313)	\$	(32,176,566)	\$	(32,244,819)	\$	(32,313,072)	\$	(32,381,325)	\$	(32,449,578)	\$	(32,517,831)	\$	(32,586,084)	\$	(32,654,337)	\$	(32,722,590)	\$	(32,790,843)	\$	(32,859,096)	\$	(32,927,349)	\$	(32,995,602)	\$	(33,063,855)	\$	(33,132,108)	\$	(33,200,361)	\$	(33,268,614)	\$	(33,336,867)	\$	(33,405,120)	\$	(33,473,373)	\$	(33,541,626)	\$	(33,609,879)	\$	(33,678,132)	\$	(33,746,385)	\$	(33,814,638)	\$	(33,882,891)	\$	(33,951,144)	\$	(34,019,397)	\$	(34,087,650)	\$	(34,155,903)	\$	(34,224,156)	\$	(34,292,409)	\$	(34,360,662)	\$	(34,428,915)	\$	(34,497,168)	\$	(34,565,421)	\$	(34,633,674)	\$	(34,701,927)	\$	(34,770,180)	\$	(34,838,433)	\$	(34,906,686)	\$	(34,974,939)	\$	(35,043,192)	\$	(35,111,445)	\$	(35,179,698)	\$	(35,247,951)	\$	(35,316,204)	\$	(35,384,457)	\$	(35,452,710)	\$	(35,520,963)	\$	(35,589,216)	\$	(35,657,469)	\$	(35,725,722)	\$	(35,793,975)	\$	(35,862,228)	\$	(35,930,481)	\$	(35,998,734)	\$	(36,066,987)	\$	(36,135,240)	\$	(36,203,493)	\$	(36,271,746)	\$	(36,340,000)	\$	(36,408,253)	\$	(36,476,506)	\$	(36,544,759)	\$	(36,613,012)	\$	(36,681,265)	\$	(36,749,518)	\$	(36,817,771)	\$	(36,886,024)	\$	(36,948,277)	\$	(37,016,530)	\$	(37,084,783)	\$	(37,153,036)	\$	(37,221,289)	\$	(37,289,542)	\$	(37,357,795)	\$	(37,426,048)	\$	(37,494,301)	\$	(37,562,554)	\$	(37,630,807)	\$	(37,699,060)	\$	(37,767,313)	\$	(37,835,566)	\$	(37,903,819)	\$	(37,972,072)	\$	(38,040,325)	\$	(38,108,578)	\$	(38,176,831)	\$	(38,245,084)	\$	(38,313,337)	\$	(38,381,590)	\$	(38,449,843)	\$	(38,518,096)	\$	(38,586,349)	\$	(38,654,602)	\$	(38,722,855)	\$	(38,791,108)	\$	(38,859,361)	\$	(38,927,614)	\$	(38,995,867)	\$	(39,064,120)	\$	(39,132,373)	\$	(39,200,626)	\$	(39,268,879)	\$	(39,337,132)	\$	(39,405,385)	\$	(39,473,638)	\$	(39,541,891)	\$	(39,610,144)	\$	(39,678,397)	\$	(39,746,650)	\$	(39,814,903)	\$	(39,883,156)	\$	(39,951,409)	\$	(40,019,662)	\$	(40,087,915)	\$	(40,156,168)	\$	(40,224,421)	\$	(40,292,674)	\$	(40,360,927)	\$	(40,429,180)	\$	(40,497,433)	\$	(40,565,686)	\$	(40,633,939)	\$	(40,702,192)	\$	(40,770,445)	\$	(40,838,698)	\$	(40,906,951)	\$	(40,975,204)	\$	(41,043,457)	\$	(41,111,710)	\$	(41,180,000)	\$	(41,248,253)	\$	(41,316,506)	\$	(41,384,759)	\$	(41,453,012)	\$	(41,521,265)	\$	(41,589,518)	\$	(41,657,771)	\$	(41,726,024)	\$	(41,794,277)	\$	(41,862,530)	\$	(41,930,783)	\$	(41,999,036)	\$	(42,067,289)	\$	(42,135,542)	\$	(42,203,795)	\$	(42,272,048)	\$	(42,340,301)	\$	(42,408,554)	\$	(42,476,807)	\$	(42,545,060)	\$	(42,613,313)	\$	(42,681,566)	\$	(42,749,819)	\$	(42,818,072)
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	41	42	43	44	45	46	47	48	48	49	50	51	52	53	54	55	56	57	58	59	60	61
	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	
\$	2,154,910	2,270,804	1,024,800	2,776,456	2,591,294	2,620,888	3,179,439	3,130,080	2,340,698	2,756,100	1,254,544	2,533,940	2,766,648	2,147,100	2,432,640	3,100,050	3,056,458	3,165,628	3,253,100	2,873,060	3,627,208	
\$	2,154,910	2,270,864	1,024,800	2,776,458	2,591,294	2,620,888	3,179,439	3,130,080	2,340,698	2,756,100	1,292,544	2,533,940	2,766,648	2,147,100	2,432,640	3,100,050	3,056,458	3,165,628	3,253,659	2,873,060	3,627,208	

	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61
	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20
\$	2,560,742	2,067,660	2,067,660	961,971	2,881,103	1,923,943	1,923,943	961,971	3,588,732	2,453,760	2,453,760	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789
\$	2,560,742	2,067,660	2,067,660	961,971	2,881,103	1,923,943	1,923,943	961,971	3,588,732	2,453,760	2,453,760	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789	1,491,789

(19,053,905)	(19,038,705)	(18,899,048)	(18,899,682)	(18,899,682)	(19,057,323)	(18,462,971)	(17,829,594)	(14,673,659)	(16,191,744)	(16,357,051)	(16,100,664)	(16,362,462)	(15,373,995)	(14,153,678)	(13,549,613)	(11,164,152)	(8,109,268)	(5,091,893)	(1,953,295)			
(62,051)	(63,546)	(63,462)	(62,987)	(62,989)	(62,989)	(63,558)	(61,543)	(59,432)	(62,246)	(53,972)	(54,524)	(53,696)	(54,542)	(51,247)	(47,179)	(45,165)	(37,214)	(27,031)	(16,973)			
\$	2,154,910	2,270,864	1,024,800	2,776,458	2,591,294	2,620,888	3,179,439	3,130,080	2,340,698	2,756,100	1,292,544	2,533,940	2,766,648	2,147,100	2,432,640	3,100,050	3,056,458	3,165,628	3,253,659	2,873,060	3,627,208	
\$	(16,871,046)	(16,831,388)	(17,937,710)	(16,185,220)	(16,539,028)	(15,905,641)	(14,711,688)	(12,603,011)	(13,903,291)	(13,654,924)	(14,870,663)	(13,882,207)	(12,661,889)	(12,057,825)	(11,164,152)	(8,109,268)	(5,091,893)	(1,953,295)	(0)			
\$	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
\$	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	(6,059,761)	
\$	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	1,723,987	

**EXHIBIT 2.4.6
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

APPROVED FINAL FINANCING PLAN

[To Follow]

**EXHIBIT 2.7.1
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF COMPLETION GUARANTY

[See Attached]

**GUARANTY
OF
COMPLETION OF PROJECT
PURSUANT TO
DISPOSITION AND DEVELOPMENT AGREEMENT**

THIS GUARANTY OF COMPLETION OF PROJECT PURSUANT TO DISPOSITION AND DEVELOPMENT AGREEMENT (“**Guaranty**”), dated as of _____, 20____, is executed and delivered by Scott Hanks, John Lam, Roger Richard, Jae Ryu, and SDC, Inc., a California corporation (each and all of the foregoing are referred to herein as the “**Guarantor**”), in favor of the SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”), with reference to the facts set forth in the Recitals below. Guarantor and Agency are hereinafter sometimes referred to individually as a “party” and collectively as the “parties.” Unless otherwise defined herein, all capitalized terms used in this Guaranty shall have the same meanings set forth in the DDA (as defined in the first Recital below):

RECITALS

WHEREAS, Guarantor is willing to execute and deliver this Guaranty for the express and intended purpose of inducing Agency to enter into that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), dated as of _____, 2016, by and between Agency and MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (the “**Developer**”) (as may be amended from time to time in accordance therewith, the “**DDA**”), with respect to certain property described in the DDA and located in the City of Richmond, State of California (the “**Property**”); and

WHEREAS, pursuant and subject to the terms and conditions of the DDA, Developer is obligated, among other things, to acquire the Property from Agency and develop thereon the Project as more particularly described in, and within the time periods set forth in, the DDA; and

WHEREAS, as a condition to Agency’s obligation to sell and convey the Property to Developer under the DDA, Developer is required to deliver to Agency this Guaranty of all obligations of Developer under the DDA with respect to the Commencement and Completion of Construction of the Project executed by Guarantor.

NOW, THEREFORE, Guarantor, in order to induce Agency to execute the DDA and take actions pursuant thereto, and as an inducement to Agency to permit Developer to acquire and develop the Property pursuant to the DDA, and for other valuable consideration received by Developer and Guarantor, the receipt and adequacy of which are hereby acknowledged, does hereby agree as follows:

GUARANTY

1. Guaranty. Guarantor hereby unconditionally, absolutely and irrevocably guarantees to Agency the full and timely performance and payment, as and when due under the DDA, of all covenants, conditions, obligations, responsibilities and liabilities of Developer under

the DDA with respect to the Commencement and Completion of Construction of the Project, including all Construction Phases (collectively, the “**Guaranteed Obligations**”):

2. Further Instruments. Guarantor shall execute and deliver to Agency such further documents, instruments, and agreements, upon such terms and conditions, as Agency may reasonably require, in order to further evidence Guarantor’s agreement to satisfy the Guaranteed Obligations as required hereunder.

3. Termination and Release. Following satisfaction in full of the Guaranteed Obligations, Agency agrees, upon the request of Guarantor, to deliver to Guarantor an instrument evidencing the termination of this Guaranty and the release of Guarantor from any further liability hereunder.

4. Independent Obligations. Guarantor’s obligations hereunder are independent of the obligations of Developer or any assignee of the DDA, and a separate action or actions may be brought and prosecuted against Guarantor whether or not action is brought against Developer or any such assignee and whether or not Developer or any such assignee is joined in any such action or actions.

5. Joint and Several. If there is more than one Guarantor hereunder, the obligations of each and all Guarantors hereunder shall be joint and several.

6. Guarantor Authorizations. Guarantor authorizes Agency, without notice or demand and without affecting Guarantor’s liability hereunder, from time to time to: (a) extend, accelerate, or otherwise change the time for any performance or payment provided for in the DDA or any covenant, term, or condition of the DDA; (b) impair or suspend in any respect Agency’s rights or remedies against Developer in respect to the DDA; (c) consent to and effectuate any assignment, reassignment, or other transfer, in whole or in part, of the DDA or any payments, rights or obligations thereunder; (d) approve modifications to the Project; (e) amend or modify any terms and conditions of the DDA; (f) take and hold security for the performance of any covenant, term, or condition of the DDA or for any payment provided for in the DDA, or exchange, waive, or release any such security; (g) apply such security and direct the order or manner of sale thereof as Agency in its sole discretion may determine; and (h) assign this Guaranty in whole or in part.

7. Preferential Payments. Guarantor further agrees that to the extent Developer or Guarantor makes any payment to Agency in satisfaction of any part of the Guaranteed Obligations, and all or any part of such payment is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid by Agency or paid over to a trustee, receiver or any other entity, under any applicable state or federal law, including, without limitation, laws pertaining to bankruptcy, insolvency or other proceeding (any such payment is hereinafter referred to as a “**Preferential Payment**”), then notwithstanding any prior revocation, termination, surrender, or discharge of this Guaranty in whole or part, this Guaranty shall continue to be effective or shall be reinstated, as the case may be, and, to the extent of such payment or repayment by Agency, the Guaranteed Obligations or part thereof intended to be satisfied by such Preferential Payment shall be revived and continued in full force and effect as if said Preferential Payment had not been made.

8. Waivers of Enforcement. Guarantor acknowledges and agrees that the liabilities created by this Guaranty are direct and are not conditioned upon pursuit by Agency of any remedy Agency may have against Developer or any other person or any security, including but not limited to any Project Performance and Payment Security. Guarantor further agrees that Agency may enforce this Guaranty upon the occurrence of any Developer Event of Default, notwithstanding the existence of any dispute between Developer and Agency with respect to the existence of said Developer Event of Default or performance of the Guaranteed Obligations or any counterclaim, set-off or other claim which Developer may allege against Agency with respect thereto. Guarantor waives any right to require Agency to: (a) proceed against Developer or any other person or entity; (b) proceed against or exhaust any security held from Developer or Guarantor, including but not limited to any Project Performance and Payment Security; (c) pursue any other remedy in Agency's power which Guarantor cannot itself pursue, and which would lighten its burden; or (d) make any presentment. Guarantor waives any defense arising by reason of any disability or other defense of Developer, or any assignee of the DDA, by reason of the cessation from any cause whatsoever of the liability of Developer, or any assignee of the DDA, or by reason of any lack of authority of any officer, director, partner, agent, or other person acting or purporting to act on behalf of Developer, or any defect in the formation of Developer. Guarantor waives all demands upon and notices to Developer, or any assignee of the DDA, and to Guarantor other than as provided herein, including, without limitation, demands for performance, notices of non-performance, notices of non-payment and notice of acceptance of this Guaranty. Guarantor waives the benefit of any statute of limitations affecting its obligations hereunder or the enforcement thereof. Moreover, Guarantor agrees that Guarantor's obligations shall not be affected by any circumstances which constitute a legal or equitable discharge of a guarantor or surety.

9. WAIVERS OF STATUTES. WITHOUT LIMITING THE GENERALITY OF ANY OTHER WAIVER OR OTHER PROVISION SET FORTH IN THIS GUARANTY, GUARANTOR HEREBY WAIVES, TO THE MAXIMUM EXTENT SUCH WAIVER IS PERMITTED BY LAW, ANY AND ALL BENEFITS, DEFENSES TO PAYMENT OR PERFORMANCE, OR ANY RIGHT TO PARTIAL OR COMPLETE EXONERATION ARISING DIRECTLY OR INDIRECTLY UNDER ANY ONE OR MORE OF CALIFORNIA CIVIL CODE SECTIONS 2799, 2808, 2809, 2810, 2815, 2819, 2820, 2821, 2822, 2838, 2839, 2845, 2847, 2848, 2849, AND 2850.

10. Waivers of Subrogation. Until such time as the Guaranteed Obligations have been performed in full, Guarantor waives any and all rights to be subrogated to the position of Agency or to have the benefit of any lien, security interest, or other guaranty now or later held by Agency for the Guaranteed Obligations or to enforce any remedy which Agency now or later has against Developer or any other person. Guarantor agrees that until such time as the Guaranteed Obligations have been performed in full and the period of time has expired during which any payment made by Developer, any assignee of the DDA, or Guarantor to Agency on account of the Guaranteed Obligations may be determined to be a Preferential Payment, any claim or other rights which Guarantor may now have or hereafter acquire against Developer, any assignee of the DDA, or any other guarantor of all or any of the Guaranteed Obligations that arise from the existence or performance of Guarantor's obligations under this Guaranty or any other document executed in connection with the DDA, and under any extensions, renewals or modifications thereof (all such claims and rights are referred to as "**Guarantor's Conditional Rights**"), including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, or indemnification, any right to participate in any claim or remedy of Agency against Developer or any assignee of

the DDA or any collateral which Agency now has or hereafter acquires, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, by any payment made hereunder or otherwise, including without limitation, the right to take or receive from Developer or any assignee of the DDA, directly or indirectly, in cash or other property or by setoff or in any other manner, payment or security on account of such claim or other rights, shall be subordinate to Agency's right to full performance of the Guaranteed Obligations, and Guarantor shall not enforce Guarantor's Conditional Rights during such period. If, notwithstanding the foregoing provision, any amount shall be paid to Guarantor on account of Guarantor's Conditional Rights and either (i) such amount is paid to Guarantor at any time when the Guaranteed Obligations shall not have been paid or performed in full, or (ii) regardless of when such amount is paid to Guarantor, any payments made by Developer or any assignee of the DDA to Agency on account of the Guaranteed Obligations is at any time determined to be a Preferential Payment, then such amount paid to Guarantor shall be held in trust for the benefit of the Agency and shall forthwith be paid to Agency to be credited and applied upon the Guaranteed Obligations, whether matured or unmatured, in such order as Agency in its sole and absolute discretion, shall determine. Guarantor represents, warrants and covenants that (a) there do not now exist any agreements between Guarantor and Developer which are inconsistent with the waiver of subrogation contained herein, (b) Guarantor will not hereafter enter into any such agreements with Developer, and (c) any such purported agreements are void.

11. Subordination. To the extent that any of the provisions of the immediately preceding Section hereof shall not be enforceable, Guarantor agrees that until such time as the Guaranteed Obligations have been paid and performed in full and the period of time has expired during which any payment made by Developer, any assignee of the DDA, or Guarantor to Agency on account of the Guaranteed Obligations may be determined to be a Preferential Payment, Guarantor's Conditional Rights to the extent not validly waived shall be subordinate to Agency's right to full performance of the Guaranteed Obligations, and Guarantor shall not enforce Guarantor's Conditional Rights during such period.

12. Obligations to Cure Developer Defaults. Within thirty (30) days after Guarantor's receipt of written notice from Agency of any breach by Developer of, or any failure by Developer to comply with, any of Developer's obligations under the DDA with respect to the Commencement or Completion of Construction of the Project, Guarantor shall cure or cause Developer to cure any such breach or failure (provided, however, that nothing herein shall be deemed to extend any period under the DDA for Developer to cure any such breach or failure). If Guarantor does not cure or cause Developer to cure such breach or failure within such thirty (30)-day period, then Agency shall have the right, without having obligation to do so, and without further notice to Guarantor and without waiving any other rights or remedies against Developer or Guarantor, to take any actions it believes necessary to complete and/or pay the Guaranteed Obligations, but with the further right to suspend or terminate any such actions at any time. No such actions of Agency shall release or limit the liability of Guarantor or Developer, and Guarantor also shall promptly repay Agency all sums expended by Agency in its undertaking to complete and/or pay such Guaranteed Obligations.

13. Attorneys' Fees. Guarantor agrees to pay reasonable attorneys' fees (both fees for attorneys of the Office of City Attorney of the City of Richmond and private attorneys) and all other costs and expenses which may be incurred by Agency in the enforcement of this Guaranty or otherwise arising out of the subject matter of this Guaranty. For purposes of this Guaranty, the

reasonable fees of attorneys of the Office of City Attorney of the City of Richmond shall be based on the fees then regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which such services were rendered who practice in San Francisco Bay Area law firms.

14. No Waiver. No right or power of Agency shall be deemed to have been waived by any act or conduct on the part of Agency, or by any neglect to exercise such right or power, or by any delay in so doing; and every right and power of Agency shall continue in full force and effect until such right or power is specifically waived by an instrument in writing executed by Agency.

15. No Assignment. Guarantor shall not assign or delegate, in whole or in part, any of its rights or obligations under this Guaranty. Subject to the preceding sentence, this Guaranty shall bind Guarantor, its successors and assigns, and shall inure to the benefit of Agency, and its designees, successors and assigns.

16. Annual Confirmation. On or before July 1 of each year until satisfaction in full of the Guaranteed Obligations, Guarantor shall provide to Agency reasonable and customary written evidence from one or more bona fide financial institutions, substantiating that the Guarantor then has on hand (in the aggregate) at least Five Million Dollars (\$5,000,000.00) in cash or cash equivalent assets. Guarantor further covenants and agrees to immediately notify Agency of any material adverse change in Guarantor's financial status.

17. Bankruptcy. So long as any Guaranteed Obligations shall be owing to Agency, Guarantor shall not, without the prior written consent of Agency, commence or join with any other party in commencing any bankruptcy, reorganization or insolvency proceedings of or against Developer. The obligations of Guarantor under this Guaranty shall not be altered, limited or affected by any case, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Developer or by any defense which Developer may have by reason of the order, decree or decision of any court or administrative body resulting from any such case. Agency shall have the sole right to accept or reject any plan on behalf of Guarantor proposed in such case and to take any other action which Guarantor would be entitled to take, including, without limitation, the decision to file or not file a claim. Guarantor acknowledges and agrees that any interest on the Guaranteed Obligations which accrues after the commencement of any such proceeding (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on any such portion of the Guaranteed Obligations if said proceedings had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of the Parties that the Guaranteed Obligations should be determined without regard to any rule or law or order which may relieve Developer of any portion of such Guaranteed Obligations. Guarantor hereby permits any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person to pay Agency, or allow the claim of Agency in respect of, any such interest accruing after the date on which such proceeding is commenced. Guarantor hereby assigns to Agency Guarantor's right to receive any payments from any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person by way of dividend, adequate protection payment or otherwise. If all or any portion of the Guaranteed Obligations is paid or performed by Developer, the obligations of Guarantor hereunder shall continue and remain in full force and effect in the event that all or any part of such payment(s) or performance(s) is avoided or recovered directly or indirectly from Agency as a preference, fraudulent transfer or

otherwise in such case irrespective of payment or performance in full of all obligations under the DDA.

18. Governing Law. This Guaranty is entered into in the City of Richmond and each and every term and provision thereof shall be construed in accordance with the laws of the State of California, without reference to its conflict of laws provisions.

19. Guarantor Knowledge. Guarantor warrants and agrees that each of the waivers set forth in this Guaranty is made with Guarantor's full knowledge of its significance and consequences, and that under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of said waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective only to the maximum extent permitted by law.

20. Notice. Any notice to be given Agency hereunder shall be given at the address and in the manner set forth in Section 11.1 of the DDA. Any notice to be given Guarantor shall be given at the address set forth below Guarantor's signature and in the manner set forth in Section 11.1 of the DDA.

21. Representations and Warranties. Guarantor represents, warrants and covenants that (i) any Guarantor that is not an individual is duly organized, validly existing and in good standing under the laws of the state of its formation and is qualified to transact business in the State of California; (ii) any financial statements of Guarantor heretofore delivered to Agency are true and correct in all respects. Such statements were prepared in accordance with generally accepted accounting principles, consistently applied, and fairly present the financial position of Guarantor as of the date thereof. Guarantor further warrants and represents that no material adverse change has occurred in Guarantor's financial position since the date of such statements; (iii) Guarantor has full power and authority to execute, deliver and perform its obligations under this Guaranty; (iv) the execution, delivery and performance has been duly authorized by all requisite action on its part; (v) this Guaranty constitutes the valid, legal and binding obligation of Guarantor; (vi) there are no actions, suits or proceedings pending, or to the knowledge of Guarantor threatened against or affecting Guarantor which could have a material adverse effect on the ability of Guarantor to honor its obligations hereunder, or involving the validity or enforceability of this Guaranty, at law or in equity; (vii) the consummation of the transaction hereby contemplated and performance of this Guaranty will not result in the breach of, or constitute a default under, any mortgage, deed of trust, lease, bank loan or credit agreement, partnership agreement, corporate charter, bylaws or other agreement or instrument to which Guarantor is a party or by which it is or may be bound or affected; and (viii) Guarantor has no counterclaims, offsets or defenses with respect to this Guaranty.

22. Independent Investigation. Guarantor delivers this Guaranty based solely on its independent investigation of the financial condition and capabilities of Developer and is not relying on any information furnished by Agency. Guarantor assumes full responsibility for obtaining any further information concerning Developer's financial condition and capabilities, the status of the DDA and Developer's obligations thereunder or any other matter that Guarantor may deem necessary or appropriate from time to time. Guarantor waives any duty on the part of Agency, and agrees that it is not relying upon nor expecting Agency to disclose to Guarantor any fact now or later known by Agency, whether relating to the operations or condition of Developer, the existence, liabilities or financial condition or capabilities of any other party, the occurrence of

any breach or failure by Developer or Developer Event of Default with respect to the DDA, or otherwise, notwithstanding any effect these facts may have upon Guarantor's risk under this Guaranty or Guarantor's rights against Developer. Guarantor knowingly accepts the full range of risk encompassed by the scope of this Guaranty, including without limitation, the possibility that Developer will incur obligations for which Guarantor will be liable under this Guaranty after Developer's financial condition or ability to pay its lawful debts when they fall due has deteriorated. Guarantor agrees that no security now or later held by Agency for completion of the Guaranteed Obligations, whether from Developer, any guarantor or surety, or otherwise, and whether in the nature of a security interest, pledge, lien, assignment, setoff, suretyship, guaranty, indemnity, insurance or otherwise, including but not limited to any Project Performance and Payment Security, shall affect in any manner the unconditional obligation of Guarantor under this Guaranty, and Agency, in its sole discretion, without notice to Guarantor, may release, exchange, enforce and otherwise deal with any security without affecting in any manner the unconditional obligation of Guarantor under this Guaranty.

23. Review of DDA. Guarantor has received a copy of the DDA, as executed or in the form to be executed, and is satisfied with all of the terms and conditions thereof (to the extent that same are applicable to the Guaranteed Obligations). In executing and delivering this Guaranty, Guarantor has relied on its own review of the DDA and not on any representation or statement of Agency or any other person.

24. Jurisdiction and Venue. Guarantor hereby irrevocably submits to the jurisdiction and venue of any State court in Contra Costa County, California, in any action or proceeding brought to enforce or otherwise arising out of or related to this Guaranty and irrevocably waives to the fullest extent permitted by law any objection which Guarantor may now or hereafter have to the resting of such jurisdiction and venue in such forum, and hereby further irrevocably waives any claim that such forum is an inconvenient forum.

25. Entire Agreement/Amendment. Except as otherwise expressly set forth herein, this Guaranty, including all recitals, exhibits and schedules hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous understandings, correspondence, negotiations, representations, promises and agreements, oral or written, by or between the parties, with respect to the subject matter hereof. This Guaranty may be amended, modified, or supplemented only by a writing signed by both parties.

26. Counterparts. This Guaranty, and all amendments and supplements to it, may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. The parties shall be entitled to rely upon facsimile copies or electronic copies of a party's signature to this Guaranty and any instrument executed in connection herewith.

27. Severability. If any of the provisions contained in this Guaranty shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Guaranty, and this Guaranty shall be construed as if such invalid, illegal, or unenforceable provision had not been contained in this Guaranty.

28. Interpretation. Captions and headings in this Guaranty are for convenience of reference only and shall not affect the meaning or interpretation of any provision of this Guaranty. As used herein: (a) the singular shall include the plural (and vice versa) and the masculine or neuter gender shall include the feminine gender (and vice versa) where the context so requires; (b) locative adverbs such as “herein,” “hereto,” and “hereunder” shall refer to this Guaranty in its entirety and not to any specific section or paragraph; (c) the terms “include,” “including,” and similar terms shall be construed as though followed immediately by the phrase “but not limited to;” (d) “shall,” “will,” “must,” “agrees,” and “covenants,” are mandatory and “may” is permissive; and (e) “or” is not necessarily exclusive. The parties have jointly participated in the negotiation and drafting of this Guaranty, and this Guaranty shall be construed fairly and equally as to the parties, without regard to any rules of construction relating to the party who drafted a particular provision of this Guaranty.

29. No Third Party Beneficiaries. This Guaranty is made solely for the benefit of the parties to this Guaranty and their respective successors and permitted assigns, and no other person or entity shall have or acquire any rights or remedies under this Guaranty, except as otherwise expressly provided in this Guaranty.

30. Adequate Consideration. Guarantor represents and warrants that it has received adequate and sufficient consideration for the Guaranteed Obligations incurred under this Guaranty.

IN WITNESS WHEREOF, Guarantor has executed and delivered this Guaranty as of the date first set forth above.

GUARANTORS

SCOTT HANKS

JOHN LAM

ROGER RICHARD

JAE RYU

SDC, INC., a California corporation

By: _____

Its: _____

(Signatures continued on next page)

Address for Notices to Guarantors:

SCOTT HANKS, Guarantor

STREET

CITY CA ZIP

Attn: Mr./Ms. _____

Facsimile: _____

JOHN LAM, Guarantor

STREET

CITY CA ZIP

Attn: Mr./Ms. _____

Facsimile: _____

ROGER RICHARD, Guarantor

STREET

CITY CA ZIP

Attn: Mr./Ms. _____

Facsimile: _____

JAE RYU, Guarantor

STREET

CITY CA ZIP

Attn: Mr./Ms. _____

Facsimile: _____

SDC, INC., a California corporation, Guarantor

STREET

CITY CA ZIP

Attn: Mr./Ms. _____

Facsimile: _____

(Signatures continued on next page)

ACCEPTED BY SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY
REDEVELOPMENT AGENCY

By: _____

Name: _____

Its: _____

SPOUSAL CONSENT TO GUARANTY

I acknowledge that I am the spouse of _____, a Guarantor who signed the foregoing Guaranty of Completion of Project Pursuant to Disposition and Development Agreement, dated as of _____, 20__, by Scott Hanks, John Lam, Roger Richard, Jae Ryu and SDC, Inc., and for the benefit of the Successor Agency to the Richmond Community Redevelopment Agency, and its successors and assigns (the "Guaranty"). I acknowledge that I have read the Guaranty and know its contents. I am aware that the Guaranty may affect community property, and I hereby consent to the terms of the Guaranty and agree to be bound by the terms thereof. I hereby waive any right that I may have to set aside the Guaranty.

Date: As of _____, 2016

Printed Name of Spouse

Signature of Spouse

**EXHIBIT 2.7.2
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

ASSIGNMENT OF DEVELOPER AGREEMENTS, PLANS AND APPROVALS

[See Attached]

**ASSIGNMENT OF DEVELOPER AGREEMENTS,
PLANS AND SPECIFICATIONS, AND APPROVALS
(Miraflores Housing Development Community – Market Rate Residential)**

FOR VALUE RECEIVED, MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (“**Developer**”), hereby assigns and transfers to the SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”), all of its right, title, and interest in and to:

- (1) All consulting, architectural, design, engineering, construction, services and materials contracts, and development agreements, and any and all amendments, modifications, supplements, addenda and general conditions thereto (collectively “**Agreements**”), heretofore or hereafter entered into by any Contractor (as defined below);
- (2) All studies and analyses, surveys, plans and specifications, shop drawings, working drawings, amendments, modifications, changes, supplements, general conditions and addenda thereto (collectively “**Plans and Specifications**”) heretofore or hereafter prepared by any Contractor; and
- (3) All land use approvals, building permits, licenses, and other governmental approvals of any nature obtained for the development of the Property (as defined below) (collectively, the “**Approvals**” and together with Agreements and Plans and Specifications, the “**Assigned Documents**”).

This Assignment of Developer Agreements, Plans and Specifications, and Approvals (“**Assignment**”), is made pursuant to the terms of the Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) dated as of July 19, 2016 (the “**DDA**”), entered into between Developer and Agency. Capitalized terms used but not defined in this Assignment shall have the meanings set forth in the DDA. The real property which is the subject of this Assignment is more particularly described in Exhibit A-1 attached to the DDA and is referred to herein as the “**Property**”.

For purposes of this Assignment, the term “**Contractor**” means any consultant, architect, construction contractor, engineer or other person or entity entering into Agreements with Developer and/or preparing Plans and Specifications for Developer with respect to the development of the Project.

Developer hereby irrevocably appoints Agency as its attorney-in-fact (which agency is coupled with an interest) to, upon the occurrence of a Default (after notice and opportunity to cure) or an event which, with notice or the passage of time or both would constitute a Default (after notice and opportunity to cure) under and as defined in the DDA, or if pursuant to **Section 4.6.1.6** of the DDA, Agency acquires the Property, Agency may demand, receive, exercise, and enforce any and all of Developer's rights with respect to the Assigned Documents, and perform any and all

acts in the name of Developer or in the name of Agency with the same force and effect as if performed by Developer in the absence of this Assignment.

Upon and during the continuance of a Developer Event of Default, Agency shall have the right to enforce Developer's rights and interest with respect to the Assigned Documents, and may, without affecting any of Agency's rights and remedies against Developer under any other agreement, exercise Agency's rights under this Assignment as Developer's attorney-in-fact or in any other manner permitted by law. In addition, Agency shall have and possess, without limitation, any and all rights and remedies of a secured party under the California Uniform Commercial Code or as otherwise provided by law.

Developer represents and warrants to Agency that, except as otherwise expressly provided in the DDA, no previous assignment(s) of its rights or interest in or to the Assigned Documents, has or have been made, and Developer agrees not to assign, sell, pledge, transfer, mortgage, or hypothecate its rights or interest therein without the prior written approval of the Agency Executive Director. Developer further represents and warrants that all Assigned Documents for the Property are or will be in the name of Developer and that Developer has the full power and authority to execute this Assignment and perform its obligations hereunder.

Developer hereby creates in favor of Agency a security interest in the Assigned Documents under the California Uniform Commercial Code. This Assignment is made to secure payment and performance by Developer of all its obligations under the DDA. The rights of Agency hereunder in and to the Assigned Documents shall be subject and subordinate to any rights of Holders of Permitted Security Interests or Other Approved Security Interests in and to the Assigned Documents thereunder.

Developer hereby agrees to protect, indemnify, defend and hold Agency free and harmless from and against any and all out-of-pocket claims, causes of action, demands, damages (expressly excluding punitive, consequential, special and exemplary damages), liens, liabilities, losses, costs and expenses (including reasonable attorneys' fees) which Agency may incur in exercising any of Agency's rights under this Assignment, except where caused by the gross negligence or willful misconduct of Agency.

This Assignment shall be governed by the laws of the State of California, and Developer consents to the jurisdiction of any State Court within the State of California having proper venue for the filing and maintenance of any action arising hereunder and agrees that the prevailing party in any such action shall be entitled, in addition to any other recovery, to reasonable attorneys' fees and costs.

This Assignment shall be binding upon and inure to the benefit of the legal representatives, assigns, and successors-in-interest of Developer and Agency; provided, however, this shall not be construed and is not intended to waive the restrictions on assignment, sale, transfer, mortgage, pledge, hypothecation or encumbrance by Developer contained in the DDA or this Assignment.

No right or remedy conferred upon Agency or Developer in this Assignment is intended to be exclusive of any other right or remedy contained in the DDA or this Assignment, and every such right or remedy shall be cumulative and in addition to every other right or remedy contained herein or therein or now or hereafter available to Agency or Developer, at law, in equity, by statute or otherwise.

Executed by Developer on _____, 201__.

DEVELOPER:

MIRAFLORES COMMUNITY DEVCO, LLC,
a California limited liability company

By: _____
Scott Hanks
Its _____

ARCHITECT'S/ENGINEER'S CONSENT

The undersigned architect and/or engineer (collectively referred to as “**Architect**”) hereby consents to the foregoing Assignment of Agreements, Plans and Specifications, and Approvals (“**Assignment**”), of which this Architect's/Engineer's Consent (“**Consent**”) is a part, and acknowledges that there presently exists no unpaid claims presently due to Architect except as disclosed to the Agency arising out of the preparation and delivery of the Plans and Specification to Developer and/or the performance of the Architect's obligations under the Agreements, as the term “Agreements” is defined in the Assignment.

Architect agrees that if, at any time, Agency shall become the owner of said Property, following a Default or the termination of the DDA, or, pursuant to its rights under the DDA, elects to undertake or cause the completion of construction of the development on any of the Property, in accordance with the Plans and Specifications, and gives Architect written notice of such election; then so long as Architect has received, receives or continues to receive the compensations called for under the Agreements, Agency may, at its option, use and rely on the Plans and Specifications for the purposes for which they were prepared, and Architect will continue to perform its obligations under the Agreements for the benefit and account of Agency in the same manner as if performed for the benefit or account of Developer in the absence of this Assignment, so long as Agency agrees to perform all of the obligations of the owner as outlined in the contract.

Architect further agrees that, in the event of a breach by Developer of the Agreements, or any agreement entered into with Architect in connection with the Plans and Specifications, so long as Developer's interest in the Agreements and Plans and Specifications is assigned to Agency, Architect will give written notice to Agency at the address shown below of such breach. Agency shall have thirty (30) days from the receipt of such written notice of Default to remedy or cure said Default; provided, however, nothing herein shall require Agency to cure said Default or to undertake completion of construction of the Project.

Architect warrants and represents that it/he/she has no knowledge of any prior assignment(s) of any interest in any of the Assigned Documents. Except as otherwise defined herein, the terms used herein shall have the meanings given them in the Assignment.

Executed by Architect on _____, 201__.

Address of Agency:

Successor Agency to
the Richmond Community
Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

ARCHITECT:

By: _____

Its: _____

Address of Architect:

**EXHIBIT 4.4.1.2
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF AGENCY REGULATORY AGREEMENT

[See Attached]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant to
Government Code Section 27383

**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

This Regulatory Agreement and Declaration of Restrictive Covenants for Miraflores Housing Development Community (Market Rate Residential) (“**Agreement**”) is made and entered into as of this ____ day of _____ 201__, by and between the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”), and Miraflores Community Devco, LLC, a California limited liability company (“**Developer**”).

RECITALS

A. The purpose of this Agreement is to increase, improve, and preserve the supply of affordable housing in the City of Richmond (the “**City**”) by creating covenants, conditions, and restrictions to ensure Developer’s construction and sale of housing that is affordably priced for Moderate Income Households (as defined below) in compliance with Developer’s obligations under that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) as may be amended, dated as of July 19, 2016 (the “**DDA**”), entered into by and between Developer and Agency.

B. Pursuant to the DDA, Agency will convey to Developer that certain real property located in the City, County of Contra Costa, State of California, as more particularly described in **Exhibit A**, incorporated herein and attached hereto (the “**Property**”), and upon which Developer will construct 150-196 market rate “for sale” residential units and thirty (30) “for sale” residential units affordable to Moderate Income Households, incorporating a mix of single family attached townhomes and condominium units, parking, landscaping, and other ancillary amenities and improvements (both on and off the Property), consistent with this Agreement (the “**Project**”).

C. Agency will convey the Property to Developer subject to all terms and conditions set forth in the DDA, including but not limited to the condition that thirty (30) residential units of the Project be marketed and made available for sale exclusively to Moderate Income Households

at a sales price not to exceed the amount established by Agency as set forth herein for the Term of this Agreement.

D. In order to ensure that the Project will be used and operated in accordance with the covenants, conditions and restrictions herein, Agency and Developer desire to enter into this Agreement.

NOW THEREFORE, in consideration of the recitals, hereof, and other mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Agency and Developer hereby agree as follows.

ARTICLE 1 DEFINITIONS

1.1 Definitions.

When used in this Agreement, the following terms shall have the respective meanings assigned to them in this **Article 1**. All other capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned to them in the DDA.

(a) “**Actual Household Size**” shall mean the actual number of persons in the applicable household.

(b) “**Adjusted for Family Size Appropriate for the Unit**” shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit. This definition is utilized to calculate Affordable Housing Cost and is not intended to limit the number of people occupying the unit.

(c) “**Affordable Housing Cost**” shall mean for a Moderate Income Household, a down payment in an amount to be approved by Agency plus a Monthly Housing Cost of not less than one-twelfth (1/12) of twenty eight percent (28%) of the gross income of the household, nor a Monthly Housing Cost exceeding one-twelfth (1/12) of the product of thirty five percent (35%) times one hundred and ten percent (110%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit. In addition, for any qualifying Moderate Income Household that has a gross income that exceeds one hundred and ten percent (110%), Agency shall have the option to require that Monthly Housing Costs shall not exceed one-twelfth (1/12) of thirty five percent (35%) of the gross income of the household.

(d) “**Affordable Sales Price**” shall have the meaning set forth in **Section 2.2**.

(e) “**Agency**” shall mean the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012, and any designee thereof or successor thereto.

(f) “**Agreement**” shall mean this Regulatory Agreement and Declaration of Restrictive Covenants for Miraflores Housing Development Community (Market Rate Residential).

(g) “**Area Median Income**” or “**AMI**” shall mean the median gross yearly income, adjusted for Actual Household Size (to qualify residents) in the County of Contra Costa, California, as published from time to time by HUD and HCD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, Agency shall provide Developer with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HUD and HCD.

(h) “**Certification of Household Eligibility**” shall have the meaning set forth in **Section 2.3**.

(i) “**City**” shall mean the City of Richmond, a municipal corporation and charter city.

(j) “**DDA**” shall have the meaning set forth in **Recital A**.

(k) “**Eligible Purchaser**” shall have the meaning set forth in **Section 2.3**.

(l) “**HCD**” shall mean the State of California Department of Housing and Community Development and any successor agency thereto.

(m) “**Housing Cost**” shall be calculated in accordance with the provisions of California Code of Regulation, Title 25, section 6910 *et seq.*, as amended from time to time, and which as of the date hereof include all the following costs associated with the Inclusionary Unit:

- (1) Principal (which shall not exceed ninety-seven percent (97%) of the purchase price of the Inclusionary Unit) and interest on mortgage loans and any loan insurance fees associated therewith (as disclosed in any truth in lending statements);
- (2) Property taxes and assessments;
- (3) Fire and casualty insurance premiums covering replacement value of property improvements;
- (4) Property maintenance and repairs;
- (5) A reasonable allowance for utilities, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigerator fuels. Utilities do not include telephone service. Such an allowance shall take into consideration the cost of an adequate level of service;
- (6) Homeowners’ association fees.

The “**Monthly Housing Cost**” shall be an average of estimated Housing Cost for the twelve (12) months following the date of a qualifying person or family’s purchase.

(n) “**HUD**” shall mean the United States Department of Housing and Urban Development and any successor agency thereto.

(o) “**Inclusionary Housing Ordinance**” or “**Ordinance**” shall mean the City’s Inclusionary Housing Ordinance, Ordinance No. 28-01 N.S. adopted on October 23, 2001 which

has been codified as Sections 15.04.810.061 through 15.04.810.08, inclusive, of the Richmond Municipal Code.

(p) **“Inclusionary Unit”** shall have the meaning set forth in **Section 2.1**.

(q) **“Market Rate Units”** shall mean residential units within the Project which are not subject to the affordability restrictions described in this Agreement.

(r) **“Moderate Income Household”** shall mean a person or family whose income does not exceed one hundred and twenty percent (120%) of Area Median Income, adjusted for family size in accordance with adjustment factors adopted and amended from time to time by HUD in establishing income limits for lower income families. Qualifying income shall be calculated in accordance with the provisions of California Code of Regulation, Title 25, Section 6910 *et seq.*, as amended from time to time.

(s) **“Ownership and Resale Restrictions”** shall have the meaning set forth in **Section 2.3**.

(t) **“Project”** shall mean all on-site and off-site improvements to be constructed by Developer under the DDA.

(u) **“Property”** shall have the meaning set forth in **Recital B**.

(v) **“Resale Agreement”** shall have the meaning set forth in **Section 2.3**.

(w) **“Term”** shall have the meaning set forth in **Section 3.3**.

(x) **“Unit”** or **“Units”** shall mean the individual for-sale residential units to be constructed on the Property as part of the Project.

1.2 Exhibit. The following exhibit is attached to and incorporated in this Agreement:

- Exhibit A: Legal Description of Property
- Exhibit B: Description of the Inclusionary Units
- Exhibit C: Site Map
- Exhibit D: Form of Agency Resale Agreement
- Exhibit E: Form of Agency Promissory Note
- Exhibit F: Form of Agency Deed of Trust
- Exhibit G: Form of Certification of Household Eligibility
- Exhibit H: Form of Calculation of Affordable Housing Cost and Maximum Affordable Sales Price
- Exhibit I: Affirmative Buyer Disclosure and Acknowledgment of Restrictions

ARTICLE 2 AFFORDABILITY COVENANTS

2.1 Requirement to Build Inclusionary Housing. As provided in this Agreement, and pursuant to Developer’s obligations under the DDA, Developer shall designate a total of thirty

(30) Units on the Property as inclusionary units, as defined in the Inclusionary Housing Ordinance, which shall be made available for sale to Moderate Income Households at an Affordable Sales Price as defined herein (each an “**Inclusionary Unit**”).

2.2 Initial Sales Price. The Inclusionary Units shall be made available at a price that shall not exceed the maximum price at which the Housing Cost to be paid by the Moderate Income Household would not exceed the Affordable Housing Cost (the “**Affordable Sales Price**”). Developer shall calculate the Affordable Sales Price and Affordable Housing Costs for qualified Moderate Income Households substantially in the manner of the formula attached hereto and incorporated herein as **Exhibit H** and otherwise satisfactory to Agency.

2.3 Conditions of Sale to Eligible Purchasers. Developer shall sell the Inclusionary Units exclusively to and for occupancy by Moderate Income Households. A Moderate Income Household meeting the requirements of this section shall be deemed an “**Eligible Purchaser.**”

(a) Income Certification. As a condition precedent to initial sale of an Inclusionary Unit to an Eligible Purchaser, Developer shall obtain a certification of household eligibility substantially in the form attached hereto and incorporated herein as **Exhibit G** and otherwise satisfactory to Agency (the “**Certification of Household Eligibility**”) from each such Eligible Purchaser, which Certification of Household Eligibility shall be dated no more than one hundred and twenty (120) days prior to entering escrow for such Eligible Purchaser’s purchase of the Inclusionary Unit. Developer shall use commercially reasonable efforts to verify that the income provided by an Eligible Purchaser on the Certification of Household Eligibility is accurate by taking two or more of the following steps as a part of the verification process:

- (1) obtain pay stubs for the most recent three (3) months;
- (2) obtain income tax returns for the most recent three (3) tax years;
- (3) conduct a credit agency or other similar search;
- (4) obtain an income verification from the applicant's current employer;
- (5) obtain an income verification from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or
- (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification.

Developer shall not incur any liability under this Agreement as a result of fraud or misrepresentation (intentional or unintentional) by an Eligible Purchaser. Each purchase and sale agreement for an Inclusionary Unit shall contain a provision to the effect that Developer has relied on the income certification and supporting information supplied by the Eligible Purchaser in determining qualification for purchase of the Inclusionary Unit, and that any material misrepresentation or misstatement in any such certification (whether or not intentional) shall be cause for Agency to exercise remedies available under the Ownership and Resale Restrictions (as defined herein).

(b) Principal Place of Residence. As a condition precedent to sale of an Inclusionary Unit to an Eligible Purchaser, the Eligible Purchaser shall certify that he or she will occupy the Inclusionary Unit as a principal place of residence and shall agree to in no event lease

the Inclusionary Unit for more than two (2) months in a year without written approval from Agency as provided in the Resale Agreement (the “**Owner Occupancy Certification**”).

(c) Execution of Ownership and Resale Restrictions. As a condition precedent to sale of an Inclusionary Unit to an Eligible Purchaser, the Eligible Purchaser shall:

(1) execute and record against the Inclusionary Unit a Resale Restriction Agreement (the “**Resale Agreement**”) substantially in the form attached hereto and incorporated herein as **Exhibit D** and otherwise satisfactory to Agency;

(2) execute and deliver to Agency an Agency Promissory Note substantially in the form attached hereto and incorporated herein as **Exhibit E** and otherwise satisfactory to Agency;

(3) execute and record against the Inclusionary Unit an Agency Deed of Trust securing the Eligible Purchaser’s obligations under the Resale Agreement and the Agency Promissory Note, substantially in the form attached hereto and incorporated herein as **Exhibit F** and otherwise satisfactory to Agency; and

(4) execute and deliver to Agency an Affirmative Buyer Disclosure and Acknowledgment of Restrictions substantially in the form attached hereto and incorporated herein as **Exhibit I** and otherwise satisfactory to Agency; as well as such other documents required by Agency in its reasonable discretion.

Collectively, the above documents shall be known as the “**Ownership and Resale Restrictions.**”

(d) Report to Agency. As a condition precedent to sale of an Inclusionary Unit to an Eligible Purchaser, Developer shall transmit copies of the following documentation to Agency for Agency approval, which shall not be unreasonably withheld: (i) the Eligible Purchaser’s income information obtained under **Section 2.3(a)** with the attached required documentation; (ii) the calculation of Affordable Sales Price for the Inclusionary Unit; (iii) a summary of the Eligible Purchaser’s total funding package; (iv) Owner Occupancy Certification; and (v) the Ownership and Resale Restrictions, all executed by the Eligible Purchaser, at least fifteen (15) business days prior to the sale of the Inclusionary Unit to the Eligible Purchaser. If Agency does not deliver to Developer a notice in which it approves or disapproves Developer’s selection of the Eligible Purchaser within such fifteen (15) business day period, Developer’s selection of the Eligible Purchaser shall be deemed approved.

(e) Additional Information. Developer shall provide to Agency any additional information regarding initial sale of the Inclusionary Units reasonably requested by Agency. Agency shall have the right to examine and make copies of all books, records, or other documents of Developer which pertain to sale of the Inclusionary Units.

2.4 Marketing of Inclusionary Units. If multiple Moderate Income Households equally qualify to purchase an Inclusionary Unit (as to income, credit history, and other nondiscriminatory factors), Developer shall prioritize applicants who meet any of the following criteria:

- (1) At least one household member who both lives within the City limits *and* operates a business or is employed by a business or a public or quasi-public agency in the City;

- (2) At least one household member lives within the City limits;
- (3) At least one household member operates a business or is employed by a business or a public or quasi-public agency in the City.

For the purposes of meeting the above criteria, the qualifying household member shall be a person whose name will appear on the title and who will use the Inclusionary Unit as their primary residence, or a person who will use the Inclusionary Unit as their primary residence and who is a dependent of a person whose name will appear on the title.

2.5 Recording of Restrictive Covenants. Unless otherwise released from this Agreement as provided herein, Developer agrees to cause the recordation of the documents required by Agency at the close of escrow on an Inclusionary Unit when conveying an Inclusionary Unit by including the forms referenced in **Section 2.3**, as applicable, as part of the covenants and restrictions on title. Developer shall be obligated to record such documents only against the Inclusionary Units. Nothing herein shall be interpreted to authorize Agency to require or cause to be recorded any of the foregoing documents upon any Market Rate Unit. Agency reserves the right, without any required approval of Developer, to amend the form of the Ownership and Resale Restrictions and any related documents in the future to maintain consistency with the City's Inclusionary Housing Ordinance, provided that nothing in such documents shall amend the terms and conditions of this Agreement or otherwise amend any obligations of Developer hereunder.

2.6 Comparison of Inclusionary Units and Market Rate Units. The Inclusionary Units shall be: (i) equivalent with the Market Rate Units with respect to size, appearance, materials, siting, placement within buildings, and landscaping; (ii) evenly distributed through the Project, Inclusionary Units shall not be located in only one portion of the Property; (iii) shall contain not less than the average number of bedrooms as in the Market Rate Units in the Project; and (iv) residents in Inclusionary Units shall have equal access to and enjoyment of all common facilities of the Project.

2.7 Inclusionary Units by Type, Approximate Location, and Number of Bedrooms. Developer shall allocate the thirty (30) Inclusionary Units on the Property: (i) as to product type and number of bedrooms in substantial conformance with the chart attached hereto as **Exhibit B**; and (ii) as to location in substantial conformance with the site map attached hereto as **Exhibit C**, which exhibits are incorporated herein and made a part hereof.

2.8 Project Phasing and Time of Completion. Developer shall construct the Inclusionary Units contemporaneously with or prior to the Market Rate Units. Developer anticipates commencing construction of the Project promptly after the City's issuance of Building Permits for the Project and Developer anticipates Completion of the Project within three (3) years of the issuance of the first Building Permit. If Developer phases construction of the Project, construction of Inclusionary Units will be phased in a like manner. For example, if the DDA provides that Developer will complete one (1) Inclusionary Unit for every six (6) Market Rate Units, then Developer shall phase construction of the Inclusionary Units such that at least one Inclusionary Unit is completed contemporaneously with every six Market Rate Units.

2.9 Limitation of this Agreement to Inclusionary Units. At such time as Developer shall have identified the Residential Units on the Property that will be marketed and sold as the

Inclusionary Units, and such Inclusionary Units have been established and identified on a parcel or final map and a condominium plan that have been recorded in the Official Records of Contra Costa County, California, the Parties shall, upon Developer's request, execute, acknowledge and cause to be recorded in the Official Records of Contra Costa County, California an amendment to this Agreement and an amendment to the Notice of Affordability Restrictions, in forms mutually acceptable to the Parties, that limit the terms of this Agreement and of the Notice of Affordability Restrictions, respectively, to such identified Inclusionary Units and release all other portions of the Property from the terms of this Agreement and from the Notice of Affordability Restrictions.

ARTICLE 3
MISCELLANEOUS

3.1 No Preferential Treatment or Discrimination. Developer shall not give preference to any particular class or group of persons in selling the Inclusionary Units, except to the extent otherwise required by **Article 2** of this Agreement. There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age, ancestry, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Inclusionary Unit nor shall Developer, or any person claiming under or through Developer, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of buyers, tenants, lessees, sub-lessees, subtenants or vendees of any Inclusionary Unit on the Property.

3.2 Mandatory Language in All Subsequent Deeds, Leases, and Contracts. All deeds, leases, or contracts made or entered into by Developer, its successors or assigns, as to any portion of the Inclusionary Units shall contain therein the following language:

(a) 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 race, color, creed, religion, age, disability, sex, sexual orientation, marital status, national origin, or ancestry 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).”

(b) 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 race, color, creed, religion, age, disability, sex, sexual orientation, marital status, national origin, or ancestry 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, sub-lessees, 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).”

(c) In Contracts:

“(1) There shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, age, disability, sex, sexual orientation, marital status, national origin, or ancestry 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, sub-lessees 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).”

3.3 Term. The term of this Agreement shall begin on the date of this Agreement as set forth above, and shall terminate thirty (30) years from the date of this Agreement (the “**Term**”). This Agreement shall bind any successor, heir, or assign of Developer, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released in writing by Agency.

3.4 Covenants to Run With the Land. Agency and Developer hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall, without regard to technical classification and designation, run with the land, and shall bind all successors in title to the Inclusionary Units. Further, this Agreement and all provisions hereof also constitute equitable servitudes that will bind all successors and assigns of the Parties hereto. Provided, however, that on the expiration of the Term said covenants and restrictions shall expire and thereafter shall be of no further force or effect. Each and every contract, deed, or other instrument hereafter executed covering or conveying the Inclusionary Units or any portion thereof, shall 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 Agency expressly releases in writing such conveyed portion of the Property from the requirements of this Agreement.

3.5 Indemnification. Developer hereby covenants and agrees that it shall indemnify, defend (with counsel reasonably acceptable to Agency and City), protect and hold harmless Agency, its officers, employees, and agents acting in their official capacity, and City, its elected officials, officers, employees, and agents acting in their official capacity (collectively the “**Indemnified Parties**”) from and against any and all claims, demands, actions, causes of action, proceedings, liabilities, losses, damages, fines, penalties, liens, costs and expenses (including court costs and reasonable attorneys’, experts’ and consultants’ fees and costs (“**Claims**”) directly or indirectly arising out of or relating to any act or omission of Developer or any of its agents, contractors, servants, employees or licensees in connection with this Agreement or Developer’s obligations or performance or non-performance under this Agreement, and whether such Claims accrue or are discovered during the Term or after the expiration or other termination of this Agreement. Developer’s indemnity obligations (but not the duty to defend) under this **Section 3.5** shall not apply to the extent any Claims are finally determined to have been caused by the sole willful misconduct or gross negligence of Indemnified Parties. Insurance limits shall not operate to limit Developer’s indemnity obligations under this **Section 3.5** or elsewhere in this Agreement. The provisions of this **Section 3.5** and all other indemnity obligations of Developer hereunder shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

3.6 Effect of Sale of an Inclusionary Unit. Upon: (i) the closing of the sale of an Inclusionary Unit by Developer to an Eligible Purchaser in accordance with the terms of this Agreement; and (ii) the execution and recordation, as applicable, of the Ownership and Resale

Restrictions against such Inclusionary Unit, Developer shall have no further obligations or liabilities with respect to compliance with this Agreement for such Inclusionary Unit, including but not limited to, monitoring the compliance with this Agreement and the Ownership and Resale Restrictions entered into by the Eligible Purchaser of that Inclusionary Unit or any successor, and responsibility for compliance with the Ownership and Resale Restrictions as to that Inclusionary Unit shall thereafter be the burden of the Eligible Purchaser of the Inclusionary Unit. Sale of all of the Inclusionary Units by Developer to Eligible Purchasers in accordance with the terms and conditions of this Agreement shall be deemed full and final satisfaction of Developer's obligation under this Agreement to provide inclusionary housing for the Project. The provisions of this **Section 3.6** do not limit Developer's indemnity obligations under **Section 3.5**; provided, however, that Developer's indemnity obligations under **Section 3.5** shall, upon satisfaction of the requirements set forth in clauses (i) and (ii) of this **Section 3.6**, terminate with respect to such Inclusionary Unit as to any matters based on facts, circumstances or occurrences first arising following Developer's Ownership Period with respect to such Inclusionary Unit; provided, however, that nothing herein shall relieve or release Developer from any of its obligations under the Affordable Units Warranty Security, which obligations shall survive Developer's Ownership Period and the Term for the Affordable Units Warranty Periods..

3.7 Enforcement by Agency. If Developer fails to perform any obligation under this Agreement, and fails to cure the default within thirty (30) days after Agency has notified Developer in writing of the default or, if the default cannot be cured within thirty (30) days, failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within ninety (90) days, Agency shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law:

(a) Action to Compel Performance or for Damages. Agency may bring an action at law or in equity to compel Developer's, or Developer's successor in interest's, performance of its obligations under this Agreement, and/or for damages.

(b) Remedies Provided Under DDA. Agency may exercise any other remedy provided under the DDA.

3.8 Attorneys' Fees and Costs. In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including attorneys' fees. This section shall be interpreted in accordance with California Civil Code section 1717 and judicial decisions interpreting that statute.

3.9 Governing Law. This Agreement shall be governed by the laws of the State of California. This Agreement is made in Contra Costa County, California, and any action relating to this Agreement shall be instituted and prosecuted in the courts of Contra Costa County, California.

3.10 Waiver of Requirements. Any of the requirements of this Agreement may be expressly waived by Agency in writing, but no waiver by Agency of any requirement of this Agreement shall, or shall be deemed to extend to or affect any other provision of this Agreement.

3.11 Recording and Filing. The Parties shall cause this Agreement, and all amendments and supplements to it, to be duly recorded in the official records of the County of Contra Costa as provided in Section 4.5 of the DDA.

3.12 Burden and Benefit. Agency and Developer hereby declare their understanding and intent that the burden of the covenants and restrictions set forth herein touch and concern the land in that Developer's legal interest in the Inclusionary Units are rendered less valuable thereby. Agency and Developer hereby further declare their understanding and intent that the benefit of such covenants and restrictions touch and concern the land by enhancing and increasing the enjoyment and use of the Inclusionary Units by Moderate Income Households, and by furthering the public purposes for which the Project was approved and which the Inclusionary Housing Ordinance implements.

3.13 Affordability Covenants. Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property or any part thereof, that unless and to the extent released of record as provided herein, the Inclusionary Units shall be subject to this Agreement for thirty (30) years.

3.14 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors or designees, and duly recorded in the official records of the County of Contra Costa.

3.15 Notices. Any notice to be given Agency or Developer hereunder shall be given at the address and in the manner set forth in Section 11.1 of the DDA.

3.16 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

3.17 Third Party Beneficiary. City shall be a third party beneficiary under this Agreement for the purpose of enforcing Developer's obligations hereunder and the provisions of this Agreement affecting or benefiting Agency.

3.18 Conflict Between Documents. In the event of any conflict between the provisions of this Agreement and the provisions of the DDA, the provisions of the DDA shall control to the extent of such conflict.

3.19 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Agency and Developer have executed this Agreement by duly authorized representatives, all on the date first written above.

DEVELOPER:

MIRAFLORES COMMUNITY DEVCO, LLC, a
California limited liability company

By: _____
Managing Member

Its: _____

AGENCY:

SUCCESSOR AGENCY TO THE RICHMOND
COMMUNITY REDEVELOPMENT AGENCY, an
entity created and organized under AB 1X 26 enacted by
the California Legislature on June 28, 2011 and AB 1484
enacted by the California Legislature on June 27, 2012

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

LEGAL DESCRIPTION OF THE PROPERTY

[See Attached]

EXHIBIT A

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, AS SAID LOT 14 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF ALTA PUNTA TRACT", RECORDED APRIL 22, 1905, IN BOOK D OF MAPS, AT PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE NORTH 00°41'22" EAST 210.00 FEET; THENCE NORTH 89°18'38" WEST 100.00 FEET; THENCE NORTH 00°41'22" EAST 110.00 FEET; THENCE, NORTH 89°18'38" WEST 100.00 FEET TO THE EAST LINE OF SOUTH 47TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 279.30 FEET TO THE EASTERLY PROJECTION OF THE NORTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID EASTERLY PROJECTION AND SAID NORTH LINE, NORTH 89°18'38" WEST 297.45 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00°41'22" EAST 349.20 FEET; THENCE NORTH 89° 18' 38" WEST 212.55 FEET TO THE EAST LINE OF SOUTH 45TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 189.41 FEET TO THE SOUTH LINE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (B.A.R.T.) RIGHT-OF-WAY; THENCE ALONG SAID SOUTH LINE, SOUTH 89° 15' 04" EAST 428.25 FEET; THENCE LEAVING SAID SOUTH LINE, SOUTH 00°41'22" WEST 111.48 FEET; THENCE SOUTH 89°18'38" EAST 41.75 FEET; THENCE ALONG THE ARC OF A TANGENT 78.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 122.52 FEET; THENCE SOUTH 00°41'22" WEST 5.00 FEET; THENCE, SOUTH 89°18'38" EAST 18.17 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33°12'56", AN ARC DISTANCE OF 14.49 FEET; THENCE SOUTH 56°05'42" EAST 11.32 FEET; THENCE ALONG THE ARC OF A TANGENT 34.03 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 34°48'11", AN ARC DISTANCE OF 20.67 FEET; THENCE SOUTH 00°41'22" WEST 266.10 FEET; THENCE ALONG THE ARC OF A TANGENT 24.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°01'47", AN ARC DISTANCE OF 27.24 FEET; THENCE SOUTH 27°22'05" EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PTN); 513-330-001(PTN), 002(PNT), 005(PTN), 006(PTN), 007(PTN), 013 & 014

**EXHIBIT B
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

DESCRIPTION OF THE INCLUSIONARY UNITS

[See Attached]

**EXHIBIT B
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

DESCRIPTION OF THE INCLUSIONARY UNITS

Product Type	Total 1-BR Units	Inclusionary 1-BR Units	Total 2-BR Units	Inclusionary 2-BR Units	Total 3-BR Units	Inclusionary 3-BR Units	Total 4-BR Units	Inclusionary 4-BR Units	Total Inclusionary Units
Totals									30

**EXHIBIT C
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

MAP OF THE PROPERTY SHOWING THE INCLUSIONARY UNITS

[To Follow]

**EXHIBIT D
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF RESALE AGREEMENT

[See Attached]

RECORDING REQUESTED PURSUANT TO GOVERNMENT
CODE SECTION 27383

When Recorded Mail To:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant to
Government Code Section 27383

**RESALE RESTRICTION AGREEMENT
(Inclusionary Housing Covenants and Restrictions)
Successor Agency to the Richmond Community Redevelopment Agency**

This Resale Restriction Agreement ("**Agreement**" or "**Resale Agreement**") is entered into as of this _____ day of _____ 20__, by and between _____ [the **Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012, or the designee thereof or successor thereto**] ("**Agency**"), and _____ ("**Owner**").

RECITALS

A. Owner intends to purchase from Miraflores Community Devco, LLC, a California limited liability company, or the successor in interest to Miraflores Community Devco, LLC, ("**Developer**") that real property located at _____, in the City of Richmond, California, as more particularly described in the attached **Exhibit A** (the "**Inclusionary Unit**"), subject to certain covenants and conditions as set forth in this Resale Agreement.

B. The City of Richmond, a municipal corporation and charter city, (the "**City**") and Agency have determined that it is in the best interest of City and Agency to increase, improve, and preserve the supply of moderate income housing in the City.

C. In connection with the foregoing, Agency entered into that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) as may be amended, dated as of July 19, 2016 (the "**DDA**") with Developer, and that certain Regulatory Agreement and Declaration of Restrictive Covenants for Miraflores Housing Development Community (Market Rate Residential) dated as of _____, 2016 (the "**Regulatory Agreement**"), also with Developer, pursuant to which Developer has committed to build and sell thirty (30) residential units to qualifying households at a reduced sales price.

D. Owner is purchasing the Inclusionary Unit from Developer for a reduced sales price that is affordable to Owner in accordance with the DDA and the Regulatory Agreement. Without

the benefits afforded by Agency's entry into the DDA and the Regulatory Agreement, the purchase price of the Inclusionary Unit would exceed the amount that is affordable to Owner.

E. Owner is receiving the following purchase money loans:

Name of Lender:	Amount:	Date Deed of Trust Recorded:
_____	_____	_____
Name of Lender:	Amount:	Date Deed of Trust Recorded:
_____	_____	_____

All purchase money loans are, collectively, the "**First Lender Loan.**" All lenders of purchase money loans are, collectively, the "**First Lender.**" The First Lender Loan is secured by _____ () deeds of trust executed by Owner in favor of First Lender and recorded in Contra Costa County concurrently with this Resale Agreement (collectively, the "**First Lender Deed of Trust**").

F. The purpose of this Resale Agreement is to ensure the Inclusionary Unit remains affordable to Moderate Income Households. Accordingly, this Resale Agreement places resale controls on the Inclusionary Unit that require that Owner sell the Inclusionary Unit only to Eligible Purchasers (as defined below) subject to the provisions set forth herein. In addition, this Resale Agreement imposes limits on the persons who can own or occupy the Inclusionary Unit and the price for which the Inclusionary Unit may be sold, and requires Owner to pay to Agency any Excess Sales Proceeds (as defined below) or Excess Rents (as defined below). This Resale Agreement is accompanied by a promissory note from Owner to Agency (the "**Agency Note**") pursuant to which Owner agrees to pay to Agency any Excess Sales Proceeds or Excess Rents owed under the Resale Agreement. This Resale Agreement and the Agency Note shall be secured by a deed of trust on the Inclusionary Unit (the "**Agency Deed of Trust**"). This Resale Agreement and the Agency Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust.

G. In return for and in consideration of the opportunity for Owner to purchase the Inclusionary Unit under the above-referenced circumstances and for other good and valuable consideration, Owner has agreed to execute this Resale Agreement.

NOW, THEREFORE, in consideration of the recitals hereof, and other mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. When used in this Resale Agreement, the following terms shall have the respective meanings assigned to them in this **Section 1.** All other capitalized terms used in this Resale Agreement and not otherwise defined herein shall have the meanings assigned to them in the DDA and the Regulatory Agreement:

- a) "**Actual Household Size**" shall mean the actual number of persons in the applicable household.
- b) "**Adjusted for Family Size Appropriate for the Unit**" shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three

persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit. This definition is utilized to calculate Affordable Housing Cost and is not intended to limit the number of people occupying the unit.

- c) **“Affordable Housing Cost”** shall mean for a Moderate Income Household, a down payment in an amount to be approved by Agency plus a Monthly Housing Cost of not less than one-twelfth (1/12) of twenty eight percent (28%) of the gross income of the household, nor a Monthly Housing Cost exceeding one-twelfth (1/12) of the product of thirty five percent (35%) times one hundred and ten percent (110%) of Area Median Income, Adjusted for Family Size Appropriate for the Unit. In addition, for any qualifying Moderate Income Household that has a gross income that exceeds one hundred and ten percent (110%), Agency shall have the option to require that the Monthly Housing Cost shall not exceed one-twelfth (1/12) of thirty five percent (35%) of the gross income of the household.
- d) **“Affordable Rent”** shall have the meaning provided in **Section 4**.
- e) **“Agency”** shall mean the Successor Agency to the Richmond Community Redevelopment Agency of the City of Richmond, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012, and the designee thereof or successor thereto.
- f) **“Agency Deed of Trust”** shall have the meaning provided in **Recital F** hereof.
- g) **“Agency Note”** or **“Note”** shall have the meaning provided in **Recital F** hereof.
- h) **“Area Median Income”** or **“AMI”** shall mean the median gross yearly income, adjusted for Actual Household Size (to qualify residents) in the County of Contra Costa, California, as published from time to time by HUD and HCD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, Agency shall provide Owner with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HUD and HCD.
- i) **“City”** shall mean the City of Richmond, a municipal corporation and charter city.
- j) **“Eligible Purchaser”** shall mean a person or household that (i) is a Moderate Income Household; (ii) who will pay no more than Affordable Housing Cost for the purchase of the Inclusionary Unit; and (iii) agrees to enter into and cause to be recorded against the Inclusionary Unit in the Official Records of Contra Costa County (as applicable), an Agency resale agreement, Agency promissory note, and Agency deed of trust, in form acceptable to Agency, and which shall restrict the occupancy and resale price of the Inclusionary Unit consistent with the requirements of the Inclusionary Housing Ordinance, as may be supplemented or modified by other Applicable Law, for inclusionary unit ownership by a Moderate Income Household, for the remainder of the Term of this Resale Agreement.

- k) “**Event of Default**” shall mean those events described in **Section 11**.
- l) “**Excess Rents**” shall have the meaning provided in **Section 4**.
- m) “**Excess Sales Proceeds**” shall have the meaning provided in **Section 8**.
- n) “**Fair Market Value**” shall mean the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obligated to sell, and a buyer, being ready, willing and able to buy but under no particular or urgent necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the Inclusionary Unit is reasonably adaptable and available but as though this Resale Agreement did not exist. Such Fair Market Value shall include any capital improvements value.
- o) “**First Lender**” shall have the meaning provided in **Recital E**.
- p) “**First Lender Deed of Trust**” shall have the meaning provided in **Recital E**.
- q) “**First Lender Loan**” shall have the meaning provided in **Recital E**.
- r) “**HCD**” shall mean the State of California Department of Housing and Community Development and any successor agency thereto.
- s) “**HOA**” shall have the meaning provided in the DDA.
- t) “**Housing Cost**” shall be calculated in accordance with the provisions of California Code of Regulation, Title 25, section 6910 *et seq.*, as amended from time to time, and which as of the date hereof include all the following costs associated with the Inclusionary Unit:
 - 1. Principal (which shall not exceed ninety-seven percent (97%) of the purchase price of the Inclusionary Unit) and interest on mortgage loans and any loan insurance fees associated therewith (as disclosed in any truth in lending statements);
 - 2. Property taxes and assessments;
 - 3. Fire and casualty insurance premiums covering replacement value of property improvements;
 - 4. Property maintenance and repairs;
 - 5. A reasonable allowance for utilities, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigerator fuels. Utilities do not include telephone service. Such an allowance shall take into consideration the cost of an adequate level of service;
 - 6. Homeowners’ association fees.

The “**Monthly Housing Cost**” shall be an average of estimated Housing Cost for the twelve (12) months following the date of a qualifying person or family’s purchase.

- u) “**HUD**” shall mean the United States Department of Housing and Urban Development and any successor agency thereto.

- v) **"Inclusionary Housing Ordinance"** or **"Ordinance"** shall mean the City's Inclusionary Housing Ordinance, Ordinance No. 28-01 N.S. adopted on October 23, 2001 which has been codified as Sections 15.04.810.061 through 15.04.810.08, inclusive, of the Richmond Municipal Code, as amended from time to time.
- w) **"Inclusionary Unit"** shall mean the real property described in **Exhibit A** and all improvements thereon.
- x) **"Inheriting Owner"** shall have the meaning provided in **Section 9**.
- y) **"Moderate Income Household"** shall mean a person or family whose income does not exceed one hundred and twenty percent (120%) of Area Median Income, adjusted for family size in accordance with adjustment factors adopted and amended from time to time by HUD in establishing income limits for lower income families. Qualifying income shall be calculated in accordance with the provisions of California Code of Regulation, Title 25, Section 6910 *et seq.*, as amended from time to time.
- z) **"Notice of Intent to Transfer"** shall mean a notice delivered by Owner to Agency pursuant to **Section 5**.
- aa) **"Owner"** shall mean Owner and any successor in interest of Owner in all or any part of the Inclusionary Unit.
- bb) **"Proposed Transferee"** shall mean an Eligible Purchaser to whom Owner proposes to Transfer the Inclusionary Unit.
- cc) **"Purchase Price"** shall have the meaning provided in **Section 2**.
- dd) **"Restricted Sales Price"** shall have the meaning provided in **Section 5**.
- ee) **"Term"** shall have the meaning provided in **Section 18**.
- ff) **"Transfer"** shall mean any sale, assignment, conveyance or transfer, voluntary or involuntary, of any interest in the Inclusionary Unit. Without limiting the generality of the foregoing, Transfer shall include (i) a transfer by devise, inheritance or intestacy to a party who does not meet the definition of Eligible Purchaser, (ii) a lease or occupancy agreement of all or any portion of the Inclusionary Unit, except pursuant to **Section 4**, (iii) creation of a life estate, (iv) creation of a joint tenancy interest, (v) execution of a land sale contract by which possession of the Inclusionary Unit is transferred to another party and title remains in the transferor, (vi) a gift of all or any portion of the Inclusionary Unit, or (vii) any voluntary conveyance of the Inclusionary Unit. Transfer shall not include transfer by devise, inheritance or intestacy to a spouse, transfer to a spouse pursuant to the right of survivorship under a joint tenancy, or transfer to a spouse in a dissolution proceeding, however any subsequent Transfer shall be subject to this Resale Agreement.
- gg) **"Transferee"** shall mean any natural person or entity who obtains ownership or possessory rights in the Inclusionary Unit pursuant to a Transfer.

2. Purchase Price. The total purchase price, including title and closing costs for the Inclusionary Unit, is _____ DOLLARS (\$ _____) ("**Purchase Price**"). Owner shall be required pay at least three percent (3%) or _____ DOLLARS (\$ _____) of the Purchase Price as a down payment. The provision of this **Section 2** requiring Owner's down payment may be waived by Agency for Owners who are eligible for public housing or Section 8 assistance.

3. Owner Certifications; Owner Occupancy Requirements. Owner certifies that: (i) the financial and other information previously provided in order to qualify to purchase the Inclusionary Unit is true and correct as of the date first written above; and that (ii) at all times during the Term of this Resale Agreement, Owner shall occupy the Inclusionary Unit as Owner's principal place of residence. Owner shall be considered as occupying the Inclusionary Unit if Owner occupies the Inclusionary Unit for at least ten (10) months out of each calendar year. Owner shall provide reasonable evidence of compliance with the requirements of this **Section 3** upon request from Agency, which request shall not be made more than once in any twelve (12) month period. Reasonable evidence includes a written certification of compliance executed by Owner and accompanied independent verification reasonably acceptable to Agency which may include, but is not limited to, copies of utility bills, property tax bills, mortgage statements, and/or valid vehicle registration or driver's license showing the Inclusionary Unit as Owner's home address. Agency may grant in writing a temporary waiver of this occupancy requirement for good cause in its sole and absolute discretion.

4. Leasing of Inclusionary Unit.

a. Owner shall not lease the Inclusionary Unit to another party for more than two (2) months during any twelve (12) month period without the prior written consent of Agency, which Agency may grant in its sole and absolute discretion, and shall not lease the Inclusionary Unit for any period without providing Agency with a copy of the lease. The rent of the Inclusionary Unit shall not exceed the lesser of: (i) Owner's Monthly Housing Cost; or (ii) thirty percent (30%) of the gross monthly income of the tenant household that is renting the Inclusionary Unit (the lesser rent is the "**Affordable Rent**").

b. Any lease in violation of this Agreement is prohibited and shall constitute an Event of Default under this Resale Agreement and the Agency Deed of Trust. Owner further agrees that, if Owner leases the Inclusionary Unit to a third party in violation of this **Section 4**, any excess rents paid to Owner by the lessee over the Affordable Rent ("**Excess Rents**") shall be due and payable immediately upon receipt thereof by Owner. Such Excess Rents shall be considered a recourse debt of Owner to Agency, which Agency may collect by legal action against Owner and/or by foreclosure under the Agency Deed of Trust.

5. Restrictions on Resale and Transfer of the Inclusionary Unit. During the Term of this Resale Agreement, Owner may Transfer the Inclusionary Unit only in accordance with the provisions of this Resale Agreement. Specifically, except as set forth in **Section 7** or where the transfer is by devise, inheritance or intestacy in which case **Section 9** applies, Owner may Transfer the Inclusionary Unit only to an Eligible Purchaser for a purchase price that does not exceed the lesser of: (i) the Fair Market Value of the Inclusionary Unit, or (ii) the maximum price at which the Housing Cost to be paid by the Proposed Transferee would not exceed the Affordable Housing

Cost, as calculated in substantially the form provided in **Form 1** (the “**Restricted Sales Price**”). If Owner desires to Transfer the Inclusionary Unit, prior to the Transfer Owner shall notify Agency by delivering a “**Notice of Intent to Transfer**” in substantially the form attached hereto and incorporated herein as **Form 2**. The Notice of Intent to Transfer shall include all information requested in **Form 2**. Owner shall send Agency the Notice of Intent to Transfer by certified mail, return receipt requested, to the address provided in **Section 30** of this Resale Agreement prior to any of the following: listing the Inclusionary Unit on the Multiple Listing Service, signing with a real estate broker, notifying lenders of Owners intent to Transfer the Inclusionary Unit, or fifteen (15) business days before entering any agreement to Transfer the Inclusionary Unit.

- a) As a condition precedent to Transfer, Owner shall require such Proposed Transferee to enter into and cause to be recorded against the Inclusionary Unit in the Official Records of Contra Costa County (as applicable) an Agency resale agreement, Agency promissory note, and Agency deed of trust, in form acceptable to Agency, and which shall restrict the occupancy and resale price of the Inclusionary Unit consistent with the requirements of the Inclusionary Housing Ordinance, as may be supplemented or modified by other Applicable Law, for inclusionary unit ownership by a Moderate Income Household. The term of such Agency note, resale agreement and deed of trust shall not exceed the remainder of the thirty (30)-year period that commenced on the date of this Resale Agreement. Agency agrees that the Agency deed of trust delivered by the Proposed Transferee shall be subject and subordinate to the liens and rights of the lender(s) of purchase money loan(s) and the deed(s) of trust securing such loans obtained or delivered by such Proposed Transferee, on substantially the same terms and conditions as are provided for herein with respect to the First Lender Loan and First Lender Deed of Trust obtained or delivered by Owner.
- b) As a condition precedent to Transfer, Owner and Proposed Transferee shall provide Agency, at least fifteen (15) business days prior to the Transfer of the Inclusionary Unit to the Proposed Transferee, with (i) a certification of the Proposed Transferee’s household income in substantially the form attached hereto as **Form 3** (the “**Income Certification**”) and accompanied by two or more of the following: (a) pay stubs for the most recent two pay periods; (b) an income tax return for the last three (3) years; (c) a credit agency or similar search and report; (d) an income verification form from the Proposed Transferee’s current employer; (e) an income verification form from the Social Security Administration and/or the California Department of Social Services if the Proposed Transferee receives assistance from either of such agencies; or (f) if the Proposed Transferee is unemployed and does not have an income tax return, another form of independent verification; and (ii) a copy of the proposed sales contract and summary of the Proposed Transferee’s total funding package.
- c) Upon the close of the Transfer, Owner and Transferee shall provide Agency with a copy of the final sales contract, escrow instructions, and any other documents which Agency may reasonably request.
- d) Upon the close of the Transfer of an Inclusionary Unit from Owner to an Eligible Purchaser in compliance with this **Section 5**, including satisfaction of the requirements set forth in clauses (a) – (c) of this **Section 5**, and provided that no Event of Default exists, Agency shall (i) release such seller from all obligations under the Agency Note, and (ii) cause the

Agency Deed of Trust and this Resale Agreement to be reconveyed and released as a matter of record.

6. RESTRICTED SALES PRICE ON TRANSFER OF THE INCLUSIONARY UNIT. OWNER UNDERSTANDS THAT THE DETERMINATION OF THE RESTRICTED SALES PRICE OF THE INCLUSIONARY UNIT TO AN ELIGIBLE PURCHASER CAN BE MADE ONLY AT THE TIME OF THE PROPOSED TRANSFER, TAKING INTO CONSIDERATION INTEREST RATES, PROPERTY TAXES AND OTHER FACTORS THAT CANNOT BE ACCURATELY PREDICTED, AND THAT THE RESTRICTED SALES PRICE PERMITTED BY THIS RESALE AGREEMENT MAY NOT INCREASE OR DECREASE IN THE SAME MANNER AS OTHER SIMILAR REAL PROPERTY WHICH IS NOT ENCUMBERED BY THIS RESALE AGREEMENT. OWNER FURTHER ACKNOWLEDGES THAT AT ALL TIMES IN SETTING THE SALES PRICE OF THE INCLUSIONARY UNIT THE PRIMARY OBJECTIVE OF AGENCY AND THIS RESALE AGREEMENT IS TO PROVIDE HOUSING TO ELIGIBLE PERSONS OR HOUSEHOLDS AT AN AFFORDABLE HOUSING COST. THE RESTRICTED SALES PRICE WILL ALMOST CERTAINLY BE LESS THAN OTHER SIMILAR PROPERTIES THAT HAVE NO RESALE AGREEMENTS.

[Initialed by Owner(s)]

7. Failure to Locate Eligible Purchaser; Unrestricted Sale.

a. If, despite bona fide, good faith, documented marketing efforts, including but not limited to listing the Inclusionary Unit on the Multiple Listing Service for a minimum of sixty (60) days, Owner is unable to locate an Eligible Purchaser, Owner shall provide written notice to Agency of this fact (including documentation of Owner's marketing efforts and Multiple Listing Service listing), in the form shown in **Form 4** attached to this Resale Agreement (the "**Owner's Notice of Failure to Locate Eligible Purchaser**") and otherwise satisfactory to Agency, sent by certified mail, return receipt requested to the address indicated in **Section 30**. Agency shall then have a fifteen (15) business day period during which it has the right (but not the obligation) to: (i) designate an Eligible Purchaser; or (ii) notify Owner that they may Transfer the Inclusionary Unit to a person of Owner's choosing who is not an Eligible Purchaser, at an unrestricted price which is at or near Fair Market Value (a "**Market Purchaser**") but shall pay Excess Sales Proceeds to Agency as set forth in **Section 8** below. If Agency does not respond within the fifteen (15) business day notification period set forth above, Agency shall be deemed to have notified Owner that Owner may Transfer the Inclusionary Unit to a Market Purchaser but shall pay the Excess Sales Proceeds to Agency as set forth in **Section 8** below.

b. If Owner Transfers the Inclusionary Unit to a Market Purchaser pursuant to this **Section 7**, such Market Purchaser shall not be required to execute a resale agreement nor any other Agency document and Agency shall reconvey the liens of this Resale Agreement and the Agency Deed of Trust, provided that Owner pays to Agency the Excess Sales Proceeds pursuant to **Section 8** below.

c. At least fifteen (15) business days prior to Transfer of the Inclusionary Unit to a Market Purchaser, Owner shall provide Agency with: (i) the name and address of the Market

Purchaser; (ii) the final sales contract and all other related documents which shall set forth all the terms of the sale of the Inclusionary Unit, which documents shall include at least (a) the sales price, and (b) the price to be paid by the Market Purchaser for Owner's personal property, if any, or for services of Owner, if any, and any other credits, allowances, or other consideration; and (iii) a written certification, from Owner and the Market Purchaser in a form reasonably acceptable to Agency, that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to Agency. The certification shall also provide that the Market Purchaser or any other party has not paid and will not pay to Owner, and Owner has not received and will not receive from Market Purchaser or any other party, money or other consideration, including personal property, in addition to what is set forth in the sales contract and documents submitted to Agency. The written certification shall also include a provision that in the event a Transfer is made in violation of the terms of this Resale Agreement, or false or misleading statements are made in any documents or certification submitted to Agency, Agency shall have the right to foreclose on the Inclusionary Unit, or file an action at law or in equity as may be appropriate. In any event, any costs, liabilities or obligations incurred by Owner and/or the Market Purchaser for the return of any moneys paid or received in violation of this Resale Agreement or for any costs and legal expenses, shall be borne by Owner and/or the Market Purchaser and they shall hold Agency and City and their designees harmless and reimburse Agency's and/or City's expenses, legal fees and costs for any action Agency or City reasonably take in good faith to enforce the terms of this Resale Agreement.

8. Payment to Agency of Excess Sales Proceeds.

a. If Owner Transfers the Inclusionary Unit at an unrestricted price pursuant to **Section 7** above, or if Owner makes a Transfer in violation of this Resale Agreement, Owner shall pay to Agency the Excess Sales Proceeds upon Transfer. For the purpose of this Resale Agreement, "**Excess Sales Proceeds**" shall mean the amount by which the gross sales proceeds received by Owner from the new purchaser exceed the Restricted Sales Price for the Inclusionary Unit. After five (5) years of Owner's ownership of the Inclusionary Unit, the amount of Excess Sales Proceeds owed by Owner to Agency under this **Section 8** shall decrease by four percent (4%) of the total Excess Sales Proceeds for each additional year of ownership, such that after thirty (30) years of ownership, Owner shall owe Agency no Excess Sales Proceeds upon Transfer. For example, if in the first year of ownership, the Restricted Sales Price for the Inclusionary Unit is \$300,000, and Owner sells the Inclusionary Unit for \$400,000, Owner will owe Agency \$100,000 in Excess Sales Proceeds. If Owner were to sell the Inclusionary Unit under the same conditions after six (6) years of ownership, Owner would owe Agency \$96,000 ($\$100,000 \times 96\%$, or 1 year x 4% reduction). After a sale with the same terms taking place after ten (10) years of ownership, Owner would owe Agency \$80,000 ($\$100,000 \times 80\%$, or 5 years x 4% reduction). If the Transfer is by devise, inheritance, or intestacy pursuant to **Section 9**, Excess Sales Proceeds shall mean the amount by which the appraised value of the Inclusionary Unit exceeds the Restricted Sales Price, where the appraised value is determined by either: (i) a certified MAI or other qualified real estate appraiser hired by and at the sole cost of the Inheriting Owner and approved by Agency, which approval shall not be unreasonably withheld, and which appraisal is based, to the extent possible, upon sales prices of comparable homes sold in the market area during the preceding three (3) month period; or (ii) mutual agreement of the Inheriting Owner and Agency.

b. The amount of any Excess Sales Proceeds shall be a debt of Owner to Agency, evidenced by this Resale Agreement and the Agency Note, secured by the Agency Deed of Trust. Owner acknowledges that Agency shall have no obligation to cause reconveyance of this Resale Agreement or the Agency Deed of Trust until the Excess Sales Proceeds are paid to Agency. Owner and Agency acknowledge that the formula for calculation of the amount of Excess Sales Proceeds due from Owner to Agency is intended to cause Owner to receive the same net sales proceeds from sale of the Inclusionary Unit at an unrestricted price as Owner would receive from sale of the Inclusionary Unit to an Eligible Purchaser at the Restricted Sales Price, while at the same time allowing Owner to begin to build equity in the Inclusionary Unit after owning and occupying the Inclusionary Unit for a minimum of five (5) years.

9. Transfer by Devise, Inheritance or Intestacy. Notwithstanding anything to the contrary in this Resale Agreement, in the event a Transfer is by devise, inheritance or intestacy this **Section 9** shall govern the Transfer. Within thirty (30) days of the Transfer, the person or persons inheriting the Inclusionary Unit (the "**Inheriting Owner**") shall deliver written notice to Agency that the Transfer has occurred. Such notice shall be accompanied by income verification substantially in the manner provided for a Proposed Transferee pursuant to **Section 5(b)**. If the Inheriting Owner qualifies as an Eligible Purchaser, the Inheriting Owner shall succeed to Owner's interest and obligations under this Resale Agreement, Agency Note, and Agency Deed of Trust and, upon Agency's request, new documents evidencing the foregoing shall be executed between the Inheriting Owner and Agency. If the Inheriting Owner does not qualify as an Eligible Purchaser, the Inheriting Owner shall either: (i) market the Inclusionary Unit for sale to an Eligible Purchaser in the manner provided in **Section 5**, or (ii) shall pay to Agency the Excess Sales Proceeds pursuant to **Section 8** and any other sums owed to Agency pursuant to the Agency Note, upon which payment Agency shall reconvey the liens of this Resale Agreement and the Agency Deed of Trust. Notwithstanding the foregoing, the Inheriting Owner may own and occupy the Inclusionary Unit for up to six (6) months prior to providing an Owner's Notice of Intent to Sell to Agency pursuant to **Section 5**, provided the Inheriting Owner remains in compliance with the requirements of this Resale Agreement and the Agency Deed of Trust. The Inheriting Owner shall not be required to occupy the Inclusionary Unit during this six (6) month time period, but shall not rent the Inclusionary Unit except as provided in **Section 4** above. The income verification requirements of this **Section 9** shall not apply to transfer by devise, inheritance or intestacy to a spouse, transfer to a spouse pursuant to the right of survivorship under a joint tenancy, or transfer to a spouse in a dissolution proceeding, however that spouse shall be bound by the provisions of this Resale Agreement and any subsequent Transfer shall be subject to this Resale Agreement.

10. Maintenance and Insurance Requirements. Owner shall maintain the Inclusionary Unit, including landscaping, in good repair and in a neat, clean and orderly condition and will not commit waste or permit deterioration of the Inclusionary Unit. Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the Inclusionary Unit (adjusted every five (5) years by appraisal, if requested by Agency), naming Agency and City as additional insureds.

11. Default. The occurrence of any of the following events shall constitute an "**Event of Default**" under this Resale Agreement after Agency has given Owner written notice in the manner provided in **Section 30**, and a thirty (30) day opportunity to cure unless Agency reasonably determines that such default cannot be cured within thirty (30) days. Owner shall begin to cure

such default within fifteen (15) days after notice from Agency and diligently pursue to completion in a period of time reasonably determined by Agency. In the event of a second similar violation within a twenty-four (24) month period, Owner shall have only ten (10) days within which to cure any such subsequent violation.

- a) Breach of any covenant of Owner contained in this Resale Agreement and the failure of the Owner to begin to cure and thereafter cure such breach within the cure period of this **Section 11**.
 - b) Agency determines that Owner has made a misrepresentation to obtain the benefits of purchase of the Inclusionary Unit or in connection with its obligations under this Resale Agreement.
 - c) Owner fails to owner-occupy the Inclusionary Unit as required pursuant to **Section 3** above.
 - d) Any Transfer or attempt to Transfer in violation of this Resale Agreement.
 - e) If and when applicable, a breach of **Section 9** above.
 - f) Owner leases or rents out the Inclusionary Unit not in compliance with **Section 4** above.
 - g) A notice of default is issued under the First Lender Loan or other financing secured by the Inclusionary Unit.
 - h) Owner otherwise fails to comply with the requirements of this Resale Agreement, the Agency Note, or the Agency Deed of Trust, determined by Agency in its reasonable discretion.
12. Remedies. Upon declaration of Default by Agency under this Agreement, Agency may exercise any remedies at law or in equity, including, without limitation, any or all of the following, none of which shall be an exclusive remedy:
- a) Apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate, including but not limited to for an injunction prohibiting a proposed Transfer in violation of this Resale Agreement, for a declaration that a Transfer is void, or for any other such relief as may be appropriate.
 - b) Declare all sums due under the Agency Note (if any) immediately due and payable without further demand.
 - c) Declare a default under the Agency Note and Agency Deed of Trust and pursue all remedies under the Agency Deed of Trust.
 - d) If the Event of Default is a Transfer in violation of **Section 5** above, then in addition to any other remedy which Agency may have, Agency shall be entitled to receive the Excess Sales Proceeds. The Excess Sales Proceeds shall be due and payable by Owner to Agency at escrow closing, or at transfer of possession if there is no escrow closing prior to transfer of

possession. Except when made in compliance with **Section 7** or **Section 9**, the payment of the Excess Sales Proceeds to Agency shall not terminate this Resale Agreement, which shall continue through the Term hereof.

- e) Agency shall have the right to bring an action for specific performance of this Resale Agreement to require Owner to comply with the terms and provisions herein. Owner acknowledges that it is the intention of Owner and Agency that these provisions be specifically enforceable to maintain the supply of affordable housing for Moderate Income Households.

Upon the occurrence of an Event of Default, Agency shall have the right to exercise all the rights and remedies, and to maintain any action at law or suits in equity or other real property proceedings, to enforce the provisions of this Resale Agreement and to cure any Event of Default or violation hereof. No delay in enforcing the provisions hereof as to any Event of Default or violation shall impair, damage or waive the right of Agency to enforce the provisions of this Resale Agreement in the future or any continuing or new breach or violation of any of the covenants or provisions contained in this Resale Agreement. All rights and remedies, including without limitation those set forth in **Subsections (a) through (e)** above, of any party legally entitled to enforce this Resale Agreement shall be cumulative, and the exercise of any such right or remedy shall not impair or prejudice and shall not be a waiver of the right to exercise any other such right or remedy.

13. Condemnation, Insurance and Foreclosure Proceeds. Except as otherwise required by a First Lender, or any subsequent First Lender authorized pursuant to **Section 22** of this Resale Agreement, in the event: (i) of a judicial foreclosure, a trustee's deed upon a nonjudicial foreclosure, a deed in lieu of foreclosure or any other involuntary Transfer to the holder of a secured interest in the Inclusionary Unit, (collectively "**Foreclosure**"); (ii) the Inclusionary Unit is destroyed and insurance proceeds are to be distributed to Owner instead of being used to rebuild the Inclusionary Unit; (iii) of a condemnation or Transfer in lieu of condemnation, if the proceeds thereof are to be distributed to the Owner; or (iv) of liquidation of the HOA of which Owner is a member and distribution of the assets of the HOA to the members thereof, including Owner; to the extent that the proceeds of any event described above exceed the proceeds that otherwise would be payable to Owner under the Restricted Sales Price formula specified in **Form 1** on the date of the relevant event, all Excess Sales Proceeds shall be paid to Agency pursuant to **Section 8** when available to Owner.

14. Non-Discrimination Clauses. All deeds, leases, or contracts made relative to the Inclusionary Unit shall contain or be substantially subject to the following non-discrimination and non-segregation clauses:

- (a) 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).”

(b) 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).”

(c) 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).”

The failure of any deed or lease to contain this provision shall not affect the validity of the deed or lease.

15. Notice of Default and Foreclosure. A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Inclusionary Unit shall be recorded by Agency in the Office of the Recorder of the County of Contra Costa for the benefit of Agency. Agency may declare a Default under this Agreement upon receipt of any notice given to Agency pursuant to Civil Code Section 2924b, and may exercise its rights as provided herein.

In the event of default and foreclosure, Agency shall have the same right as Owner to cure defaults and redeem the Inclusionary Unit prior to the foreclosure sale. Nothing herein shall be construed as creating any obligation of Agency to cure any such default, nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

16. Non-Liability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and Agency is solely that of an owner and an administrator of a City affordable housing program, and that Agency and City do not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Inclusionary Unit or any other matter. Agency and City owe no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Inclusionary Unit and Owner agrees that neither Owner, nor Owner’s heirs, successors or assigns shall ever claim, have or assert any right or action against Agency or City for any loss, damage or matter arising out of or resulting from any condition of the Inclusionary Unit and will hold Agency and City harmless from any liability, loss or damage for these things. The covenants contained in this **Section 16** shall survive the expiration of this Resale Agreement.

17. Indemnity. Owner agrees to defend, indemnify, and hold Agency and City and their respective council members, officers, employees, agents, and board members harmless for all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys’ fees that Agency and City may incur as a direct or indirect consequence of: (i) Owner’s default, performance, or failure to perform any obligations as and when required by this Resale Agreement or the Agency Deed of Trust; or (ii) the failure at any time of any of Owner’s certifications,

representations, or warranties to Agency to be true and correct. The indemnity obligations contained in this **Section 17** shall survive the expiration or termination of this Resale Agreement.

18. Term of Agreement. All the provisions of this Resale Agreement, including the benefits and burdens, run with the Inclusionary Unit and this Resale Agreement shall bind, and the benefit hereof shall inure to, Owner, his or her heirs, legal representatives, executors, successors in interest and assigns, and to Agency, from the date of this Resale Agreement as set forth above until the earlier of (i) thirty (30) years from the date of this Resale Agreement; or (ii) the date of Transfer of the Inclusionary Unit to an Eligible Purchaser in compliance with this Resale Agreement, including execution by the Eligible Purchaser of a new resale agreement, Agency note, and Agency deed of trust (the "**Term**").

19. Covenants Running with the Land. Except as otherwise provided in **Section 7** of this Resale Agreement, Owner hereby subjects the Inclusionary Unit to the covenants and resale restrictions set forth in this Resale Agreement.

- a) Owner hereby declares its express intent that the covenants and resale restrictions set forth in this Resale Agreement shall be deemed covenants running with the land and shall pass to and be binding upon all parties having any interest in the Inclusionary Unit throughout the Term. Each and every contract, deed, lease or other instrument covering, conveying or otherwise transferring the Inclusionary Unit or any interest therein, as the case may be, (each a "**Contract**") shall conclusively be held to have been executed, delivered and accepted subject to this Resale Agreement regardless of whether the other party or parties to such Contract have actual knowledge of this Resale Agreement.
- b) Owner and Agency hereby declare their understanding and intent that: (i) the covenants and resale restrictions contained in this Resale Agreement shall be construed as covenants running with the land pursuant to California Civil Code Section 1468 and not as conditions which might result in forfeiture of title by Owner; (ii) the burden of the covenants and resale restrictions set forth in this Resale Agreement touch and concern the Inclusionary Unit in that Owner's legal interest in the Inclusionary Unit and all improvements thereon may be rendered less valuable thereby; and (iii) the benefit of the covenants and resale restrictions set forth in this Resale Agreement touch and concern the land by enhancing and increasing the enjoyment and use of the Inclusionary Unit by Eligible Purchasers, and by furthering the public purposes for which Agency entered the DDA and Regulatory Agreement.
- c) All covenants and resale restrictions contained herein without regard to technical classification or designation shall be binding upon Owner for the benefit of Agency and Eligible Purchasers and such covenants and resale restrictions shall run in favor of such parties for the entire period during which such covenants and resale restrictions shall be in force and effect, without regard to whether Agency is an owner of any land or interest therein to which such covenants and resale restrictions relate.
- d) Further, this Resale Agreement and all provisions hereof also constitute equitable servitudes that will bind all successors and assigns of the Parties hereto.

20. Resale Agreement to be Attached. Owner shall attach a copy of this Resale Agreement to any purchase and sale contract (or lease made pursuant to **Section 4** above) with respect to the Inclusionary Unit.

21. Subordination. Notwithstanding any provision herein, this Resale Agreement shall not diminish or affect the rights of the First Lender under the First Lender Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Inclusionary Unit in compliance with **Section 22** of this Resale Agreement.

Notwithstanding any other provision hereof, the provisions of this Resale Agreement and the Agency Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust and shall not impair the rights of the First Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Deed of Trust by the Owner. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Resale Agreement and the Agency Deed of Trust shall be forever terminated and shall have no further effect as to the Inclusionary Unit or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquires title to the Inclusionary Unit pursuant to a deed or assignment in lieu of foreclosure, this Resale Agreement and the Agency Deed of Trust shall automatically terminate upon such acquisition of title, only if (i) Agency has been given written notice of default under such First Lender Deed of Trust with a sixty (60)-day cure period and (ii) Agency shall not have cured the default within such sixty (60)-day period or commenced to cure and given its firm commitment to complete the cure in form and substance reasonably acceptable to the First Lender.

22. Refinance of First Mortgage Loan. Agency agrees to subordinate this Resale Agreement and the Agency Deed of Trust to a deed of trust securing a refinanced First Lender Loan, provided the following requirements must be met:

- a) The amount received from the refinancing can be no more than the remaining principal amount of the First Lender Loan plus the value of any capital improvements plus closing costs, except as provided in **Subsection (d)** below;
- b) The refinanced First Lender Loan is a fully amortized fixed rate loan, has a fifteen (15) year or thirty (30) year term, is fully documented, requires no balloon payments, and carries a rate of interest no higher than then-current market interest rates for Fannie Mae eligible fully-amortizing financing for owner-occupied residential property in the vicinity of the Inclusionary Unit; and
- c) The payments on the refinanced loan cannot cause Owner's Monthly Housing Cost to go above the level of Affordable Housing Cost, as defined herein.
- d) Agency may, in its sole discretion, consider approving an amount in excess of **Subsection 22(a)** above in those instances which would be considered a "hardship." "Hardship" for the purpose of this **Subsection 22(d)** shall be considered expenses incurred due to death, illness, disability, or similar unexpected emergencies.

23. Successors, Assigns. The provisions contained in this Resale Agreement shall bind the Owner and each successor owner, and shall inure to the benefit of Agency and City. City shall be a third-party beneficiary of this Resale Agreement and shall retain enforcement rights and remedies under and with respect to this Resale Agreement.

24. Lienor's Remedies. The provisions of this Resale Agreement do not limit the right of any holder of an obligation which is secured by the Inclusionary Unit to exercise any of its remedies for the enforcement of any pledge or lien; provided, however, except as may be provided for in **Section 21** of this Resale Agreement, or in **Section 27** of the Agency Deed of Trust or as may be required by any subordination agreement executed by Agency that in the event of any foreclosure, the purchaser (or other transferee) and their successors in interest and assigns and the Inclusionary Unit shall continue to be subject to this Resale Agreement.

25. Amendments. Agency and Owner shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the provisions contained in this Resale Agreement without the consent of any easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Inclusionary Unit; provided, however, that no changes in the rights of any First Lender that are provided for in this Resale Agreement shall be effective without the consent of such First Lender. This Resale Agreement shall not be amended or modified except upon the written consent of Agency and Owner and upon the recordation of an amendment hereto duly executed and acknowledged by Agency and Owner.

26. Severability. If any one or more provisions of this Resale Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void in any respect, the remainder of this Resale Agreement shall remain in full force and effect and this Resale Agreement shall be construed as if such invalid, unenforceable, or void provision had never been contained herein.

27. Governing Law. This Resale Agreement shall be governed by and construed in accordance with the law of the State of California. The venue for any legal action pertaining to this Resale Agreement shall be Contra Costa County, California.

28. No Waiver. No delay or omission in the exercise of any right or remedy of Agency or City upon any default by Owner shall impair such right or remedy or be construed as a waiver. Agency's or City's failure to insist in any one or more instance upon the strict observance of the terms of this Agreement shall not be considered a waiver of Agency's or City's right thereafter to enforce the provisions of the Resale Agreement. Agency and City shall not waive their rights to enforce any provision of this Agreement unless it does so in writing, signed by an authorized agent of Agency or City.

29. Interpretation of Resale Agreement. The terms of this Resale Agreement shall be interpreted so as to avoid speculation on the Inclusionary Unit and to insure to the extent possible that its sales price and mortgage payment remain affordable to Moderate Income Households.

30. Notices. All notices required herein shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt and

shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt as follows:

To Owner:

Richmond, CA _____

To Agency:

Successor Agency to the Richmond
Community Redevelopment Agency
or Successor Entity Thereto
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

With a Copy To:

City Attorney's Office
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Attorney

To the First Lender:

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this **Section 30**.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

In witness whereof, Owner and Agency have executed this Resale Agreement as of the date first written above.

OWNER:

By: _____

By: _____

AGENCY:

**[Successor Agency to the Richmond Community
Redevelopment Agency, an entity created and
organized under AB 1X 26 enacted by the
California Legislature on June 28, 2011 and AB
1484 enacted by the California Legislature on
June 27, 2012, or the designee thereof or successor
thereto]**

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO THE
RESALE RESTRICTION AGREEMENT**

LEGAL DESCRIPTION OF THE INCLUSIONARY UNIT

[To Follow]

**FORM 1
OF THE
RESALE RESTRICTION AGREEMENT**

**CALCULATION OF THE AFFORDABLE HOUSING COST
AND MAXIMUM AFFORDABLE SALES PRICE**

[See Attached]

Form 1
of the Resale Restriction Agreement

CALCULATION OF THE AFFORDABLE HOUSING COST
AND MAXIMUM AFFORDABLE SALES PRICE

The calculation in this Form is based on the following definition of Adjusted Family Size: The Adjusted Family Size is equal to one person greater than the number of bedrooms in the Inclusionary Unit. This definition is used to calculate the Affordable Housing Cost and Affordable Sales Price and does not limit the number of people who may occupy the Inclusionary Unit.

Assumptions for calculating the Affordable Sales Price:

- | | | |
|---|----------|-----------------|
| 1. Unit Size = | _____ | <u>Bedrooms</u> |
| 2. Adjusted Family Size = | _____ | |
| 3. Max. household income* = | \$ _____ | |
| 4. Interest rate** = | _____ | |
| 5. Monthly property taxes and assessments (per month) = | _____ | |
| 6. Property maintenance and repair (per month), including homeowners association dues = | _____ | |
| 7. Utility allowance (per month)*** = | _____ | |
| 8. Actual insurance premiums (per month) = (if not included in homeowners association dues) | _____ | |
| 9. Mortgage insurance premium = | _____ | |

* The maximum household income to qualify as a Moderate Income Household is set according to California Code of Regulations, Title 25, section 6932. The amount may change in the future; if so the new number will be used for calculating the maximum income level.

** The interest rate shall be based upon a three percent (3% down), thirty (30)-year, fully amortizing fixed rate mortgage that would be reasonable for the City's inclusionary housing client base (typically first-time homebuyers).

*** Amount is obtained from the Housing Authority of Contra Costa County's most recent Schedule of Allowances for Tenant Furnished Utilities and other Services.

I. Calculate Monthly Affordable Housing Cost:

\$ _____ .00 (110% of Area Median Income Adjusted for Family Size Appropriate for the Unit
(example - 4-person household / 3-bedroom unit)

X .35 (Affordable Housing Cost cannot exceed 35% times 110% of Area Median
\$ _____ Income)

divided by 12 (To calculate the Monthly Affordable Housing Cost)

\$ _____ **Maximum Monthly Affordable Housing Cost**

II. Calculation of the maximum amount to be spent on principal and interest of all mortgage loans:

A. \$ _____ (Maximum Monthly Affordable Housing Cost) less:

B. (-) _____ Property taxes and assessments (per month)

C. (-) _____ Insurance premiums (per month)

D. (-) _____ Utility allowance (per month)

E. (-) _____ Mortgage insurance premiums (per month)

F. (-) _____ Property maintenance and repair (per month)

G. (-) _____ Homeowners association dues (per month) equals:

H. = _____ Maximum Monthly Mortgage Payment for principal and interest

III. Calculation of Affordable Sales Price:

The Affordable Sales Price is calculated by adding the Maximum Monthly Mortgage Payment to the down payment. The maximum mortgage amount will be based upon a three percent (3%) down, thirty (30)-year, fully amortizing fixed rate mortgage at an interest rate that would be reasonable for the City's housing program client base (typically first-time homebuyers). The calculation is as follows:

1. At a ___% interest rate¹, and a loan term of thirty (30) years, the Maximum Monthly Mortgage Payment (H.) of \$ _____ will allow a **Maximum Mortgage Amount of \$ _____**.

(Note: The above step requires the use of a financial calculator.)

2. The Maximum Mortgage Amount of \$ _____ divided by .97 (for an assumed three percent (3%) down payment) equals the **Affordable Sales Price of \$ _____**.

¹ Use interest rate of 30-year Fannie Mae eligible fully amortized mortgage, as published in *The Wall Street Journal*, or if that becomes unavailable, a reasonably similar rate.

**FORM 2
OF THE
RESALE RESTRICTION AGREEMENT**

OWNER'S NOTICE OF INTENT TO TRANSFER

[See Attached]

Form 2
of the Resale Restriction Agreement

CERTIFIED MAIL
Return Receipt Requested

OWNER'S NOTICE OF INTENT TO TRANSFER

To: Successor Agency to the Richmond
Community Redevelopment Agency
or the Successor Entity Thereto
450 Civic Plaza
Richmond, CA 94804
Attn: Executive Director

From: _____ ("Owner(s)")

Address of Home: _____ ("Inclusionary Unit")

Date: _____

Please be notified pursuant to **Section 5** of the Resale Agreement between Owner and Agency dated _____, that Owner intends to transfer the Inclusionary Unit listed above.

A. The following information is provided to the Agency and the Authority pursuant to **Section 5** of the Resale Agreement:

1. Address of Inclusionary Unit: _____

2. Date Owner purchased Inclusionary Unit: _____

3. Purchase Price paid by Owner when Inclusionary Unit was purchased:

4. Date Owner intends to vacate Inclusionary Unit: _____

5. Date Inclusionary Unit will be placed on market: _____

B. As required by **Section 5** of the Resale Agreement, a copy of the Closing Disclosure from Owner's purchase of the Inclusionary Unit is attached to this Notice.

This Owner's Notice of Intent to Transfer is certified by Owner to be true and correct and is signed on _____ **[insert date]** under penalty of perjury.

By: _____
Owner

Daytime phone number of Owner

By: _____
Owner

Daytime phone number of Owner

**FORM 3
OF THE
RESALE RESTRICTION AGREEMENT**

INCOME CERTIFICATION FOR PROPOSED PURCHASER

[See Attached]

Form 3
of the Resale Restriction Agreement

INCOME CERTIFICATION FOR PROPOSED PURCHASER

Name/address of Inclusionary Unit: _____

Number of Bedrooms: _____

I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully and truthfully each of the following questions for all persons who are to occupy the Inclusionary Unit for which application is made, all of whom are listed below (the "Household"):

1.	2.	3.	4.	5.
Name of Members Household	Relationship to Head of Household	Age	Social Security Number	Place of Employment
_____	HEAD	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

The anticipated income of all the above persons during the twelve (12)-month period beginning on the date on which the above persons would enter escrow with respect to the Inclusionary Unit, including income described in (a) below, but excluding all income described in (b) below, is \$ _____.

(a) The amount set forth above includes all of the following income (unless such income is excluded as described in (b) below):

1. The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;
2. The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business) (include any withdrawal of cash or assets from the operation of a business or profession, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the above persons);

3. Interest and dividends from investments, including but not limited to savings, bank, and money market accounts and stocks and bonds, which are reportable as interest or dividend income for federal or state income tax purposes, (excluding reimbursement of cash or assets per clause (a)(2) above);
4. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts including a lump-sum payment for the delayed start of a periodic payment;
5. Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay (but see Subsection (b)(4));
6. Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of: (a) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus (b) The maximum amount which the public assistance agency could in fact allow for the Household for shelter and utilities. (If the welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under clause (b) shall be the amount resulting from one application of the percentage);
7. Periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the Inclusionary Unit;
8. All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the Inclusionary Unit) who is head of the Household or spouse (but see Subsection (b)(6)).
9. Where the Household has net Household assets in excess of Five Thousand Dollars (\$5,000), include the actual amount of income, if any, derived from all of the net Household assets or 10 percent (10%) of the value of all such assets, whichever is greater. For purposes of this subdivision, net Household assets means value of equity in real property other than the Household's full-time residence, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

(b) The following income is excluded from the amount set forth above:

1. Income from employment of children (including foster children) under the age of eighteen (18) years;
2. Casual, sporadic or irregular gifts;
3. Amounts which are specifically for or in reimbursement of the cost of medical expenses;
4. Lump-sum additions to Household assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;

5. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes of which are available for subsistence are to be included in income;
6. The special pay to a serviceman head of a Household away from home and exposed to hostile fire;
7. The special pay to a Household member serving in the Armed Forces who is exposed to hostile fire;
8. Relocation payments made pursuant to federal, state, or local relocation law;
9. Foster child care payments;
10. The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible Household; or
11. Payments received pursuant to participation in the following volunteer programs under the ACTION Agency: (i) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs; (ii) National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

We have also attached 2 of the following forms of verification:

- (a) Pay stubs for the two most recent pay period;*
- (b) An income tax return for the last three (3) years;*
- (c) A credit agency or similar search and report;*
- (d) An income verification form from a current employer;*
- (e) An income verification form from the Social Security Administration and/or the California Department of Social Services (if we receive assistance from either of such agencies; or*
- (f) We do not have an income tax return, and have attached another form of independent verification.*

* * *

We acknowledge and agree that all of the information contained in this Certification is true and correct.

Date: _____

Head of Household

Spouse

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

THIS SECTION FOR COMPLETION BY INCLUSIONARY UNIT OWNER ONLY:

I. Calculation of eligible income:

Enter amount of total eligible income for entire Household: \$ _____

Enter the Contra Costa County Moderate Income
Adjusted for Family Size Appropriate for the Unit:* \$ _____

II. Qualification as Moderate Income Household:

(A) Is the amount entered in Line I above less than the Moderate Income for Contra
Costa County Adjusted for Family Size Appropriate for the Unit? YES NO

(B) If line II(A) is "NO", then the Household does not qualify as a Moderate Income
Household.

III. Owner confirmation of applicant eligibility (check one):

_____ The Household does not qualify as a Moderate Income Household.

_____ The Household qualifies as a Moderate Income Household.

Owner

Date: _____

* The maximum household income to qualify as a Moderate Income Household in Contra Costa County is set according to California Code of Regulations, Title 25, Section 6932. This number is available from the California Department of Housing and Community Development at <http://www.hcd.ca.gov/housing-policy-development/housing-resource-center/reports/state/incnote.html>.

Adjusted for Family Size Appropriate for the Unit means the number of bedrooms in the Inclusionary Unit plus 1; so the "Family Size Appropriate" for a 3-bedroom home is 4. This number is used *only for the purposes of determining if the buyer's income meets the requirements of a Moderate Income Household*. The Inclusionary Unit can be sold to a household of any size that meets the income limit and other requirements of the Resale Agreement

**FORM 4
OF THE
RESALE RESTRICTION AGREEMENT**

OWNER'S NOTICE OF FAILURE TO LOCATE ELIGIBLE PURCHASER

[See Attached]

Form 4
of the Resale Restriction Agreement

CERTIFIED MAIL
Return Receipt Requested

OWNER'S NOTICE OF FAILURE TO LOCATE ELIGIBLE PURCHASER

To:
Successor Agency to the Richmond
Community Redevelopment Agency
or the Successor Entity Thereto
450 Civic Plaza
Richmond, CA 94804
Attn: Executive Director

From: _____ ("Owner(s)")

Address of Inclusionary Unit: _____ ("Inclusionary Unit")

Date: _____

Owner hereby certifies to Agency that he/she has made bona fide good faith efforts (including listing the Inclusionary Unit in the Multiple Listing Service) to locate an Eligible Purchaser for the Inclusionary Unit, but has been unable to locate an Eligible Purchaser.

Evidence of bona fide, good faith, marketing efforts of at least sixty (60) days to find an Eligible Purchaser, including a copy of the multiple listing for the Inclusionary Unit are attached.

Consistent with Section 7 of the Resale Agreement, Agency shall have a fifteen (15) business days from receipt of this Notice during which it has the right, but not the obligation to (i) designate an Eligible Purchaser; or (ii) notify Owner that they may Transfer the Inclusionary Unit to a person of Owner's choosing who is not an Eligible Purchaser, at an unrestricted price which is at or near Fair Market Value (a "Market Purchaser") but shall pay Excess Sales Proceeds to Agency as set forth in Section 8 of the Resale Agreement. If Agency does not respond within the fifteen (15) business day notification period set forth above, Agency shall be deemed to have notified Owner that they may Transfer the Inclusionary Unit to a Market Purchaser but shall pay an Excess Sales Proceeds to Agency as set forth in Section 8.

Signed under penalty of perjury:

By: _____
Owner(s)

Date: _____

**EXHIBIT E
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF AGENCY PROMISSORY NOTE

[See Attached]

NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS RESTRICTING REALES AND ASSUMPTIONS.

PROMISSORY NOTE
Secured by Deed of Trust

**(Successor Agency to the Richmond Community Redevelopment Agency –
Inclusionary Unit Purchase)**

Excess Sales Proceeds
Excess Rents

Richmond, California _____

_____, 20__

FOR VALUE RECEIVED, the undersigned _____,
and (if applicable) _____ (“Owner”), in accordance
with this promissory note (the “Agency Note”), promises to pay to the order of
_____ [the
**Successor Agency to the Richmond Community Redevelopment Agency, an entity created
and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and
AB 1484 enacted by the California Legislature on June 27, 2012, or the designee thereof or
successor thereto] (“Agency”),** at
_____ [the
**Successor Agency to the Richmond Community Redevelopment Agency, or Successor Entity
There to],** Attention: Agency Executive Director, 450 Civic Center Plaza, Richmond, CA 94804,
or such other place as Agency may designate in writing, any amounts due Agency as Excess Rents
and/or Excess Sales Proceeds, as applicable.

AGREEMENT

1. **Definitions.** All capitalized terms not defined in this Agency Note shall have the same definitions as in that certain Resale Restriction Agreement (the “Resale Agreement”), by and between Agency and Owner and dated the same date as this Agency Note.

2. **Purpose of Agency Note.** Owner is purchasing the Inclusionary Unit located at _____ in the City of Richmond, Contra Costa County, California (the “Inclusionary Unit”), which opportunity arises pursuant to Agency’s entry into that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), dated as of July 19, 2016, by and between Agency and MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company, (“Developer”) (as may be amended from time to time, the “DDA”), and that certain Regulatory Agreement and Declaration of Restrictive Covenants for Miraflores Housing Development Community (Market Rate Residential), dated as of _____, 20____, by and between Agency and Developer (the “Regulatory Agreement”), each with respect to certain property described in the DDA and located in the City of Richmond, State of California (the “City”), which agreements require Developer to construct and sell thirty (30) homes at a price affordable to Moderate Income

Households. The purchase price of the Inclusionary Unit has been set at below the market value, in accordance with the terms of the DDA and the Regulatory Agreement. Because the purchase price has been set below the market value, Owner is required and has agreed to execute the Resale Agreement which restricts the price of the Inclusionary Unit upon resale and requires Owner to pay to Agency any Excess Sales Proceeds upon such Transfer. In addition, the Resale Agreement prohibits Owner from renting or leasing the Inclusionary Unit except under certain terms or with Agency's prior written approval and requires Owner to pay to Agency any Excess Rents. This Agency Note evidences the obligation of Owner to pay to Agency any Excess Rents and/or Excess Sales Proceeds pursuant to the Resale Agreement.

3. Security. This Agency Note is secured by a deed of trust dated the same date as this Agency Note (the "**Agency Deed of Trust**"). Owner acknowledges that this Agency Note is given in connection with the Owner's purchase of the Inclusionary Unit as part of an effort of Agency to assist in the purchase of residences by Moderate Income Households. Said Inclusionary Unit includes both the real property and all improvements now or hereafter erected on the property, and all easements, rights, appurtenances and all fixtures now or hereafter attached to the Inclusionary Unit. The term "Inclusionary Unit," as used herein, shall have the same meaning as the term "Security" is used in the Agency Deed of Trust.

4. Term. The term of this Agency Note commences on the date of this Agency Note and expires thirty (30) years from the date of this Agency Note.

5. Payments. All Excess Sales Proceeds and Excess Rents owed under this Agency Note or the Resale Agreement (if any) shall immediately become due and payable: (i) in the event of a default by Owner under this Agency Note, the Resale Agreement, the Deed of Trust, or the First Lender Loan; or (ii) on the date Transfer is made, except for permitted Transfers as described in the Resale Agreement. Failure to declare such amounts due shall not constitute a waiver on the part of Agency nor shall it change the time such payments are due.

6. No Assumption of Agency Note by Subsequent Buyers. Owner acknowledges that this Agency Note is given in connection with the purchase of the Inclusionary Unit as part of an effort of Agency to assist in the purchase of homes by Moderate Income Households. Any Excess Rents and/or Excess Sales Proceeds due under this Agency Note are due and payable at Transfer. Consequently, this Agency Note shall not be assumable by subsequent purchasers nor by the successors and assigns of Owner.

7. Default and Acceleration. Owner shall be in default under this Agency Note if: (i) he or she is in default under the Resale Agreement, this Agency Note, the Agency Deed of Trust, or the First Lender Loan, (ii) fails to pay any money when due under this Agency Note; or (iii) breaches any representation or covenant made in this Agency Note, the Agency Deed of Trust, or the Resale Agreement. Upon the occurrence of a default as defined in this Section, Agency shall have the right to declare any Excess Sales Proceeds and/or Excess Rents immediately due and payable.

8. Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and Agency is solely that of an owner and an administrator of a City affordable housing program, and that Agency and City neither undertake

nor assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Inclusionary Unit or any other matter. Agency and City owe no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Inclusionary Unit and Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against Agency or City for any loss, damage or other matter arising out of or resulting from any condition of the Inclusionary Unit and will hold Agency and City harmless from any liability, loss or damage for these things. The covenants of this **Section 8** shall survive the termination of this Agency Note.

9. Indemnity. Owner agrees to defend, indemnify, and hold Agency and City and their respective council members, officers, employees, agents, and board members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys' fees that Agency may incur as a direct or indirect consequence of:

- a) Owner's failure to perform any obligations as and when required by this Agency Note, the Agency Deed of Trust, and the Resale Agreement; or
- b) The failure at any time of any of Owner's certifications, representations, or warranties to be true and correct.

The indemnity obligations of this **Section 9** shall survive the termination or expiration of this Agency Note.

10. No Waiver by Agency. Failure by Agency to pursue its legal and equitable remedies upon Owner's default shall not constitute a waiver of Agency's right to declare a default and exercise all of its rights under this Agency Note, the Agency Deed of Trust and the Resale Agreement. Nor shall acceptance by Agency of any payment provided for herein constitute a waiver of Agency's right to require prompt payment of any remaining principal owed. A waiver of any term of the Agency Note must be made in writing and shall be limited to the express written terms of such waiver.

11. Attorney's Fees and Costs. Owner agrees that if any amounts due under this Agency Note are not paid when due, to pay in addition to all Excess Rents and Excess Sales Proceeds, all costs and expenses of collection and reasonable attorneys' fees paid or incurred in connection with the collection or enforcement of this Agency Note, whether or not suit is filed.

12. Joint and Several Obligations. This Agency Note is the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

13. No Offset. Owner hereby waives any rights of offset it now has or may hereafter have against Agency, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Agency Note.

14. Waiver. Owner and any endorsers or guarantors of this Agency Note, for themselves, their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, notice of dishonor and notice

of non-payment of this Agency Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments hereof, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Agency Note or agreement to pay the same, and jointly and severally agree to pay all costs of collection when incurred, including reasonable attorneys' fees.

15. Notices. All notices required in this Agency Note shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt and shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt as follows:

To Owner:

Richmond, CA _____

To Agency:

Successor Agency to the Richmond
Community Redevelopment Agency
or the Successor Entity Thereto
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

With a Copy to:

City Attorney's Office
450 Civic Center Plaza
Richmond, CA 94804
Attn: Attorney for the Successor
Agency to the Richmond Community
Redevelopment Agency

To the First Lender:

The Parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this Section.

16. Controlling Law. This Agency Note shall be construed in accordance with and be governed by the laws of the State of California. The venue for any legal action pertaining to this Agency Note shall be Contra Costa County, California.

17. Assignment by Agency. Agency may assign its right to receive the proceeds under this Agency Note to any person or entity and upon notice to Owner by Agency all payments shall be made to the assignee.

18. Severability. Should any provision of this Agency Note be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

19. Entire Agreement. This Agency Note (along with the Resale Agreement and Agency Deed of Trust) sets forth the entire understanding and agreement of the Agency and the Owner and any amendment, alteration or interpretation of this Agency Note must be in writing signed by both Agency and Owner.

OWNER(S):

_____, Owner
First Buyer

_____, Owner
Second Buyer (if applicable)

_____, Owner
Third Buyer (if applicable)

**EXHIBIT F
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF AGENCY DEED OF TRUST

[See Attached]

RECORDING REQUESTED PURSUANT TO GOVERNMENT
CODE SECTION 27383

When Recorded Mail To:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant to
Government Code Section 27383

APN: _____

**NOTICE TO OWNER: THIS DEED OF TRUST CONTAINS PROVISIONS
PROHIBITING ASSUMPTIONS**

DEED OF TRUST AND SECURITY AGREEMENT
(Successor Agency to the Richmond Community Redevelopment Agency
– Inclusionary Unit Ownership)

THIS DEED OF TRUST AND SECURITY AGREEMENT ("**Agency Deed of Trust**" or "**Deed of Trust**") made this ___th day of _____, 20__, among the trustor, _____ ("**Owner**"), whose address is _____, Richmond, CA _____, and the _____ ("**Trustee**"), and _____ [the **Successor Agency to the Richmond Community Redevelopment Agency, entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012, or the Successor Entity thereto**] ("**Agency**") as Beneficiary.

Owner, in consideration of the promises herein recited and the trust herein created, irrevocably grants, transfers, conveys and assigns to Trustee, in trust, with power of sale, the property located in the City of Richmond, County of Contra Costa, State of California, described in the attached **Exhibit 1** and more commonly known as: _____, Richmond, California _____ (the "**Inclusionary Unit**").

TOGETHER with all the improvements now or hereafter erected on the Inclusionary Unit, and all easements, rights, appurtenances, and all fixtures now or hereafter attached to the Inclusionary Unit, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Inclusionary Unit covered by this Deed of Trust; and

TOGETHER with all articles of personal property or fixtures now or hereafter attached to or used in and about improvements located within the Inclusionary Unit which are necessary to

the complete and comfortable use and occupancy of such improvements for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating such an improvement, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefore, whether or not the same are, or shall be attached to said improvements in any manner; and all of the foregoing, together with the Inclusionary Unit, are herein referred to as the "**Security**";

To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever;

TO SECURE to Agency the performance of the covenants and agreements of Owner contained in that certain Resale Restriction Agreement executed by and between Owner and Agency of even date herewith (the "**Resale Agreement**").

TO SECURE to Agency the payment of Excess Sales Proceeds and Excess Rents (as defined in the Resale Agreement) that may become due by Owner to Agency, which payment obligation is further evidenced by a promissory note executed by Owner to Agency of even date herewith (the "**Agency Note**").

TO SECURE the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Owner herein contained.

OWNER AND AGENCY COVENANT AND AGREE AS FOLLOWS:

1. Owner's Estate. That Owner is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Security, that other than this Deed of Trust, the Security is encumbered only by: (a) the Resale Agreement and (b) those deed(s) of trust (collectively the "**First Lender Deed of Trust**") executed by Owner to secure _____ **[number]** promissory notes (collectively the "**First Lender Note**") executed by Owner to assist in the purchase of the Inclusionary Unit in connection with a loan or loans made to Owner as follows:

Name of Lender:	Amount:	Date Deed of Trust Recorded:
_____	_____	_____

Name of Lender:	Amount:	Date Deed of Trust Recorded:
_____	_____	_____

All lenders listed above are collectively the "**First Lender**". Owner agrees to warrant and defend generally the title to the Security against all claims and demands, subject to any declarations, easements or restrictions recorded prior to the date of this Deed of Trust. (As used in this Agency Deed of Trust, the term "First Lender" shall include all successors and assigns of the First Lender.)

2. Payment of Excess Sales Proceeds and/or Excess Rents. Owner will promptly pay to the order of Agency, when and if due pursuant to the Resale Agreement and Agency Note, any Excess

Sales Proceeds and Excess Rents (as defined in the Resale Agreement). The Agency Note contains the following provision prohibiting assumption:

“No Assumption of Agency Note by Subsequent Buyers. Owner acknowledges that this Agency Note is given in connection with the purchase of the Inclusionary Unit as part of an effort of Agency to assist in the purchase of homes by moderate income households. Any Excess Rents and/or Excess Sales Proceeds due under this Agency Note are due and payable at Transfer. Consequently, this Agency Note shall not be assumable by subsequent purchasers nor by the successors and assigns of Owner.”

3. Due on Transfer of the inclusionary Unit. Upon a Transfer (as defined in the Resale Agreement) of the Inclusionary Unit or any interest in it, except a Transfer to an Eligible Purchaser at the Restricted Sales Price (as defined in the Resale Agreement), Agency shall require immediate payment in full of all sums secured by this Agency Deed of Trust.
4. Resale Agreement. Owner will observe and perform all of the covenants and agreements of the Resale Agreement, the Agency Note, and this Deed of Trust.
5. First Lender Loan. Owner will observe and perform all of the covenants and agreements of the First Lender Note, First Lender Deed of Trust and related First Lender loan documents.
6. Charges; Liens. Owner will pay all taxes, assessments and other charges, fines and impositions attributable to the Security which may attain a priority over this Deed of Trust, by Owner making any payment, when due, directly to the payee thereof. Upon request by Agency, Owner will promptly furnish to Agency all notices of amounts due under this paragraph. In the event Owner makes payment directly, Owner will promptly discharge any lien which has priority over this Deed of Trust; provided, that Owner will not be required to discharge the lien of the First Lender Deed of Trust or any other lien described in this paragraph so long as Owner will agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Agency, or will, in good faith, contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Security or any part thereof.
7. Hazard Insurance. Owner will keep the Security insured by a standard all risk property insurance policy equal to the replacement value of the Security (adjusted every five (5) years by appraisal, if requested by Agency). If the Security is located in a flood plain, Owner shall also obtain flood insurance. In no event shall the amount of insurance be less than the amount necessary to prevent Owner from becoming a co-insurer under the terms of the policy.

The insurance carrier providing this insurance shall be licensed to do business in the State of California and be chosen by Owner subject to approval by Agency.

All insurance policies and renewals thereof will be in a form acceptable to Agency and will include a standard mortgagee clause with standard lender's endorsement in favor of the holder of the First Lender Note, Agency and the City of Richmond (“City”) as their interests may appear and in a form acceptable to Agency. Agency shall have the right to hold, or cause its designated

agent to hold, the policies and renewals thereof, and Owner shall promptly furnish to Agency, or its designated agent, the original insurance policies or certificates of insurance, all renewal notices and all receipts of paid premiums. In the event of loss, Owner will give prompt notice to the insurance carrier and Agency or its designated agent. Agency, or its designated agent, may make proof of loss if not made promptly by Owner. Agency shall receive thirty (30) days advance notice of cancellation of any insurance policies required under this section.

Unless Agency and Owner otherwise agree in writing, insurance proceeds, subject to the rights of the First Lender, will be applied to restoration or repair of the Security damaged, provided such restoration or repair is economically feasible and the security of this Deed of Trust is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Deed of Trust would be impaired, the insurance proceeds will be used to repay any amounts due, including Excess Sales Proceeds and/or Excess Rent, under the Resale Agreement, with the excess, if any, paid to Owner. If the Security is abandoned by Owner, or if Owner fails to respond to Agency, or its designated agent, within thirty (30) days from the date notice is mailed by either of them to Owner that the insurance carrier offers to settle a claim for insurance benefits, Agency, or its designated agent, is authorized to collect and apply the insurance proceeds at Agency's option either to restoration or repair of the Security or to pay any amounts due, including Excess Sales Proceeds and/or Excess Rent, under the Resale Agreement.

If the Security is acquired by Agency, all right, title and interest of Owner in and to any insurance policy and in and to the proceeds thereof resulting from damage to the Security prior to the sale or acquisition will pass to Agency to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition, subject to the rights of the First Lender.

8. Preservation and Maintenance of Security. Owner will keep the Security in good repair and in a neat, clean, and orderly condition and will not commit waste or permit impairment or deterioration of the Security. If there arises a condition in contravention of this **Section 8**, and if Owner has not cured such condition within thirty (30) days after receiving an Agency notice of such a condition, then in addition to any other rights available to Agency, Agency shall have the right (but not the obligation) to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Security to recover its cost of curing.

9. Protection of the Agency's Security. If Owner fails to perform the covenants and agreements contained in this Deed of Trust or if any action or proceeding is commenced which materially affects Agency's interest in the Security, including, but not limited to, default under the First Lender Deed of Trust, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy or decedent, then Agency, at Agency's option, upon notice to Owner, may make such appearances, disburse such sums and take such action as it determines necessary to protect Agency's interest, including but not limited to, disbursement of reasonable attorney's fees and entry upon the Security to make repairs.

Any amounts disbursed by Agency pursuant to this paragraph, with interest thereon, will become an indebtedness of Owner secured by this Deed of Trust. Unless Owner and Agency agree to other terms of payment, such amount will be payable upon notice from Agency to Owner requesting payment thereof, and will bear interest from the date of disbursement at the lesser of (i)

ten percent (10%); or (ii) the highest rate permissible under applicable law. Nothing contained in this paragraph will require Agency to incur any expense or take any action hereunder.

10. Inspection. Agency may make or cause to be made reasonable entries upon and inspections of the Security; provided that Agency will give Owner reasonable notice of inspection.

11. Forbearance by Agency Not a Waiver. Any forbearance by Agency in exercising any right or remedy will not be a waiver of the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Agency will not be a waiver of Agency's right to require payment of any amounts secured by this Deed of Trust or performance of any covenants secured by this Deed of Trust.

12. Remedies Cumulative. All remedies provided in this Agency Deed of Trust are distinct and cumulative to any other right or remedy under this Agency Deed of Trust or any other document, or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. Hazardous Substances. Owner shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Inclusionary Unit. Owner shall not do, nor allow anyone else to do, anything affecting the Inclusionary Unit that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Inclusionary Unit of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Inclusionary Unit.

"**Hazardous Substances**" shall mean those substances defined as toxic or hazardous substances or hazardous waste under any Environmental Law, and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials.

"**Environmental Law**" shall mean all federal and state of California laws that relate to health, safety or environmental protection.

Owner shall promptly give Agency written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Inclusionary Unit and any Hazardous Substance or Environmental Law of which Owner has actual knowledge. If Owner learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Inclusionary Unit is necessary, Owner shall promptly take all necessary remedial actions in accordance with Environmental Law.

14. Successors and Assigns Bound. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Agency and Owner subject to the provisions of this Agency Deed of Trust.

15. Joint and Several Liability. All covenants and agreements of Owner shall be joint and several.

16. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Owner provided for in this Deed of Trust will be given by certified mail, return receipt requested, addressed to Owner at the address shown in the first paragraph of this Deed of Trust or such other address as Owner may designate by notice to Agency as provided herein, and (b) any notice to Agency will be given by certified mail, return receipt requested, to Successor Agency to the Richmond Community Redevelopment Agency at 450 Civic Center Plaza, Richmond, CA 94804, Attn: Executive Director, with a copy to Successor Agency to the Richmond Community Redevelopment Agency at 450 Civic Center Plaza, Richmond, CA 94804, Attn: Agency Attorney, or to such other address as Agency may designate by notice to Owner as provided above. Notice shall be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as shown on the return receipt. The Parties may subsequently change addresses by providing written notice of the change in address to the other Parties in accordance with this **Section 16**.

17. Governing Law. This Agency Deed of Trust shall be governed by the laws of the State of California. The venue for any legal action pertaining to this Agency Deed of Trust shall be Contra Costa County, California.

18. Severability. In the event that any provision or clause of this Agency Deed of Trust, Agency Note, or the Resale Agreement conflicts with applicable law, such conflict will not affect other provisions of this Agency Deed of Trust, the Agency Note or the Resale Agreement which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust, the Agency Note, and the Resale Agreement are declared to be severable.

19. Captions. The captions and headings in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

20. Nondiscrimination. Owner covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, transfer, use, occupancy, tenure or enjoyment of the Inclusionary Unit, nor shall Owner or any person claiming under or through Owner establish or permit any such practice or practices of discrimination or segregation with reference to the use, occupancy, or transfer of the Security. The foregoing covenant shall run with the land.

21. Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and Agency and City is solely that of an owner and an administrator of an inclusionary housing program, and that Agency and City do not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Security or any other matter. Agency and City owe no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Security, and Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against Agency or City for any loss, damage or other matter arising out of or resulting from any condition of the Security and will hold Agency and City harmless from any liability, loss or

damage for these things. The covenants of this **Section 21** shall survive the reconveyance of this Deed of Trust.

22. Indemnity. Owner agrees to defend, indemnify, and hold Agency and City and their respective council members, officers, employees, agents, and board members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys' fees that Agency and City may incur as a direct or indirect consequence of:

(a) Owner's failure to perform any obligations as and when required by the Resale Agreement, the Agency Note, and this Deed of Trust; or

(b) The failure at any time of any of Owner's representations or warranties to be true and correct.

The indemnity obligations contained in this **Section 22** shall survive the expiration of this Deed of Trust.

23. Acceleration; Remedies. Upon Owner's breach of any covenant or agreement of Owner in the Resale Agreement, the Agency Note, or this Deed of Trust, including, but not limited to, the covenants to pay, when due, any sums secured by this Deed of Trust, Agency, prior to acceleration, will mail by certified mail with return receipt requested notice to Owner specifying; (i) the breach; (ii) the action required to cure such breach; (iii) a date, not less than thirty (30) days from the date the notice is received by Owner as shown on the return receipt, by which such breach is to be cured; and (iv) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Security. The notice will also inform Owner of Owner's right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of default or any other defense of Owner to acceleration and sale of the Security.

(b) Notwithstanding the foregoing, in the event of a default by Owner under the First Lender Deed of Trust, no notice to Owner shall be required prior to acceleration.

(c) If the breach is not cured on or before the date specified in the notice, Agency, at Agency's option, may: (i) declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by California law; (ii) either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Inclusionary Unit, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any breach hereunder or invalidate any act done in response to such breach and, notwithstanding the continuance in possession of the Security, Agency shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any uncured breach, including the right to exercise the power of sale; (iii) commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof; (iv) deliver to Trustee a written declaration of

default and demand for sale, pursuant to the provisions for notice of sale found at California Civil Code Sections 2924 *et seq.*, as amended from time to time; or (v) exercise all other rights and remedies provided herein, in the instruments by which Owner acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the obligations secured hereby, or provided by law.

(d) Agency shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorney's fees.

24. Owner's Right to Reinstate. Notwithstanding Agency's acceleration of the sums secured by this Deed of Trust, Owner will have the right to have any proceedings begun by Agency to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Security pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of a judgment enforcing this Deed of Trust if: (i) Owner pays Agency all sums which would be then due under this Deed of Trust and cures all breaches of any other covenants or agreements of Owner contained in the Resale Agreement, the Agency Note, or this Deed of Trust; (ii) Owner pays all reasonable expenses incurred by Agency and Trustee in enforcing the covenants and agreements of Owner contained in the Resale Agreement or this Deed of Trust, and in enforcing Agency's and Trustee's remedies, including, but not limited to, reasonable attorney's fees; and (iii) Owner takes such action as Agency may reasonably require to assure that the lien of this Deed of Trust, Agency's interest in the Security, and Owner's obligation to perform the obligations and pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Owner, this Deed of Trust and the obligations secured hereby will remain in full force and effect as if no acceleration or declaration of default had occurred.

25. Reconveyance. Upon payment of all sums secured by this Deed of Trust, or upon the expiration of the Term of the Resale Agreement, if Owner is not in violation of any provisions of the Agency Note, this Agency Deed of Trust, or the Resale Agreement, Agency will request Trustee to reconvey the Security and will surrender this Deed of Trust and the Resale Agreement to Trustee. Trustee will reconvey the Security without warranty and without charge to the person or persons legally entitled thereto. Such person or persons will pay all costs of recordation, if any.

26. Substitute Trustee. Agency, at Agency's option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. The successor trustee will succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

27. Superiority of First Lender Documents. Notwithstanding any provision herein, this Deed of Trust shall not diminish or affect the rights of the First Lender under the First Lender Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Security in compliance with the requirements of the Resale Agreement.

Notwithstanding any other provision hereof, the provisions of this Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust and shall not impair the rights of the First Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by Owner. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a

deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Deed of Trust shall be forever terminated and shall have no further effect as to the Inclusionary Unit or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquired title to the Inclusionary Unit pursuant to a deed or assignment in lieu of foreclosure and no notice of default was recorded against the Inclusionary Unit by such holder in connection therewith, this Deed of Trust shall automatically terminate upon such acquisition of title, provided that (i) Agency has been given written notice of default under such First Lender Deed of Trust with a sixty (60)-day cure period (which requirement shall be satisfied by recordation of a notice of default under California Civil Code Section 2924) and (ii) Agency shall not have cured or commenced to cure the default within such 60-day period or commenced to cure and given its firm commitment to complete the cure in form and substance acceptable to the First Lender.

28. Request for Notice. Owner requests that copies of the notice of default and notice of sale be sent to Agency at the address set forth in **Section 16** above.

IN WITNESS WHEREOF, Owner has executed this Deed of Trust as of the date first written above.

Owner

Owner

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT 1
TO
DEED OF TRUST AND SECURITY AGREEMENT
(Successor Agency to the Richmond Community Redevelopment Agency
– Inclusionary Unit Ownership)**

INCLUSIONARY UNIT DESCRIPTION

[To Follow]

**EXHIBIT G
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF CERTIFICATION OF HOUSEHOLD ELIGIBILITY

[See Attached]

FORM OF CERTIFICATION OF HOUSEHOLD ELIGIBILITY

Name/address of Inclusionary Unit: _____

Number of Bedrooms: _____

I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully and truthfully each of the following questions for all persons who are to occupy the Inclusionary Unit for which application is made, all of whom are listed below (the "Household"):

1. Name of Members Household	2. Relationship to Head of Household	3. Age	4. Social Security Number	5. Place of Employment
_____	HEAD	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

The anticipated income of all the above persons during the twelve (12)-month period beginning on the date on which the above persons would enter escrow with respect to the Inclusionary Unit, including income described in (a) below, but excluding all income described in (b) below, is \$_____.

(a) The amount set forth above includes all of the following income (unless such income is excluded as described in (b) below):

1. The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;
2. The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business) (include any withdrawal of cash or assets from the operation of a business or profession, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the above persons);
3. Interest and dividends from investments, including but not limited to savings, bank, and money market accounts and stocks and bonds, which are reportable as interest or dividend income for federal or state income tax purposes, (excluding reimbursement of cash or assets per clause (a)(2) above);

4. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts including a lump-sum payment for the delayed start of a periodic payment;
5. Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay (but see Subsection (b)(4));
6. Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of: (a) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus (b) The maximum amount which the public assistance agency could in fact allow for the Household for shelter and utilities. (If the welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under clause (b) shall be the amount resulting from one application of the percentage);
7. Periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the Inclusionary Unit;
8. All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the Inclusionary Unit) who is head of the Household or spouse (but see Subsection (b)(6)).
9. Where the Household has net Household assets in excess of \$5,000, include the actual amount of income, if any, derived from all of the net Household assets or 10 percent (10%) of the value of all such assets, whichever is greater. For purposes of this subdivision, net Household assets means value of equity in real property other than the Household's full-time residence, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.

(b) The following income is excluded from the amount set forth above:

1. Income from employment of children (including foster children) under the age of eighteen (18) years;
2. Casual, sporadic or irregular gifts;
3. Amounts which are specifically for or in reimbursement of the cost of medical expenses;
4. Lump-sum additions to Household assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
5. Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans

not used for the above purposes of which are available for subsistence are to be included in income;

6. The special pay to a serviceman head of a Household away from home and exposed to hostile fire;
7. The special pay to a Household member serving in the Armed Forces who is exposed to hostile fire;
8. Relocation payments made pursuant to federal, state, or local relocation law;
9. Foster child care payments;
10. The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible Household; or
11. Payments received pursuant to participation in the following volunteer programs under the ACTION Agency: (i) National Volunteer Antipoverty Programs which include VISTA, Service Learning Programs and Special Volunteer Programs; (ii) National Older American Volunteer Programs for persons aged 60 and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

We have also attached 2 of the following forms of verification:

- (a) Pay stubs for the two most recent pay period;***
- (b) An income tax return for the last three (3) years;***
- (c) A credit agency or similar search and report;***
- (d) An income verification form from a current employer;***
- (e) An income verification form from the Social Security Administration and/or the California Department of Social Services (if we receive assistance from either of such agencies; or***
- (f) We do not have an income tax return, and have attached another form of independent verification.***

We acknowledge and agree that all of the information contained in this Certification is true and correct.

Date: _____

Head of Household

Spouse

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

THIS SECTION FOR COMPLETION BY INCLUSIONARY UNIT OWNER ONLY:

I. Calculation of eligible income:

Enter amount of total eligible income for entire Household: \$ _____

Enter the Contra Costa County Moderate Income
Adjusted for Family Size Appropriate for the Unit:* \$ _____

II. Qualification as Moderate Income Household:

(A) Is the amount entered in Line I above less than the Moderate Income for Contra
Costa County Adjusted for Family Size Appropriate for the Unit? YES NO

(B) If line II(A) is "NO", then the Household does not qualify as a Moderate Income
Household.

III. Owner confirmation of applicant eligibility (check one):

_____ The Household does not qualify as a Moderate Income Household.

_____ The Household qualifies as a Moderate Income Household.

Owner

Date: _____

* The maximum household income to qualify as a Moderate Income Household in Contra Costa County is set according to California Code of Regulations, Title 25, Section 6932. This number is available from the California Department of Housing and Community Development at <http://www.hcd.ca.gov/housing-policy-development/housing-resource-center/reports/state/incnote.html>.

Adjusted for Family Size Appropriate for the Unit means the number of bedrooms in the Inclusionary Unit plus 1; so the "Family Size Appropriate" for a 3-bedroom home is 4. This number is used *only for the purposes of determining if the buyer's income meets the requirements of a Moderate Income Household*. The Inclusionary Unit can be sold to a household of any size that meets the income limit and other requirements of the Resale Agreement.

**EXHIBIT H
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

**FORM OF CALCULATION OF AFFORDABLE HOUSING COST
AND AFFORDABLE SALES PRICE**

[See Attached]

**CALCULATION OF THE AFFORDABLE HOUSING COST
AND MAXIMUM AFFORDABLE SALES PRICE**

The calculation in this Form is based on the following definition of Adjusted Family Size: The Adjusted Family Size is equal to one person greater than the number of bedrooms in the Inclusionary Unit. This definition is used to calculate the Affordable Housing Cost and Affordable Sales Price and does not limit the number of people who may occupy the Inclusionary Unit.

Assumptions for calculating the Affordable Sales Price:

- | | |
|--|----------|
| 1. Unit Size = | Bedrooms |
| 2. Adjusted Family Size = | |
| 3. Max. household income* = | \$ |
| 4. Interest rate** = | |
| 5. Monthly property taxes and assessments (per month) = | |
| 6. Property maintenance and repair (per month), including homeowners association dues = | |
| 7. Utility allowance (per month)*** = | |
| 8. Actual insurance premiums (per month) =
(if not included in homeowners association dues) | |
| 9. Mortgage insurance premium = | |

* The maximum household income to qualify as a Moderate Income Household is set according to California Code of Regulations, Title 25, section 6932. The amount may change in the future; if so the new number will be used for calculating the maximum income level.

** The interest rate shall be based upon a three percent (3%) down, thirty (30)-year, fully amortizing fixed rate mortgage that would be reasonable for the City's inclusionary housing client base (typically first-time homebuyers).

*** Amount is obtained from the Housing Authority of Contra Costa County's most recent Schedule of Allowances for Tenant Furnished Utilities and other Services.

I. Calculate Monthly Affordable Housing Cost:

\$_____ .00 (110% of Area Median Income, Adjusted for Family Size Appropriate for the Unit (example - 4-person household / 3-bedroom unit)

X .35 (Affordable Housing Cost cannot exceed 35% times 110% of Area Median Income)
\$_____

divided by 12 (To calculate the Monthly Affordable Housing Cost)

\$_____ Maximum Monthly Affordable Housing Cost

II. Calculation of the maximum amount to be spent on principal and interest of all mortgage loans:

- A. \$_____ (Maximum Monthly Affordable Housing Cost) less:
- B. (-) _____ Property taxes and assessments (per month)
- C. (-) _____ Insurance premiums (per month)
- D. (-) _____ Utility allowance (per month)
- E. (-) _____ Mortgage insurance premiums (per month)
- F. (-) _____ Property maintenance and repair (per month)
- G. (-) _____ Homeowners association dues (per month) equals:
- H. = _____ **Maximum Monthly Mortgage Payment for principal and interest**

III. Calculation of Affordable Sales Price:

The Affordable Sales Price is calculated by adding the Maximum Monthly Mortgage Payment to the down payment. The maximum mortgage amount will be based upon a three percent (3%) down, thirty (30)-year, fully amortizing fixed rate mortgage at an interest rate that would be reasonable for the City's housing program client base (typically first-time homebuyers). The calculation is as follows:

1. At a ___% interest rate¹, and a loan term of thirty (30) years, the Maximum Monthly Mortgage Payment (H.) of \$ _____ will allow a **Maximum Mortgage Amount of \$ _____**.
(Note: The above step requires the use of a financial calculator.)
2. The Maximum Mortgage Amount of \$ _____ divided by .97 (for an assumed three percent (3%) down payment) equals the **Affordable Sales Price of \$ _____**.

¹ Use interest rate of 30-year Fannie Mae eligible fully amortized mortgage, as published in *The Wall Street Journal*, or if that becomes unavailable, a reasonably similar rate.

**EXHIBIT I
TO
REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

**FORM OF
AFFIRMATIVE BUYER DISCLOSURE &
ACKNOWLEDGEMENT OF RESTRICTIONS**

[See Attached]

**AFFIRMATIVE BUYER DISCLOSURE & ACKNOWLEDGEMENT OF
BELOW MARKET PURCHASE RESALE, REFINANCING, OCCUPANCY &
AFFORDABILITY RESTRICTIONS PRIOR TO PURCHASE**

I/We _____ and _____
Currently residing at _____
the ("BUYER(S)") have qualified to purchase the dwelling located at
_____, CA _____ which has been
designated by _____ [the **Successor
Agency to the Richmond Community Redevelopment Agency or Successor Entity Thereto**
("Agency") as a home that is affordable to Moderate Income Households within the meaning of
the City of Richmond's Inclusionary Housing Ordinance (the "Inclusionary Unit").

I/We have been informed by the Agency, that the Agency has required the developer of the
development project ("Developer") to provide this Inclusionary Unit at a sales price that is lower
than the other market rate units in the development.

I/We fully understand that without the Agency's assistance, I/we would not otherwise have the
ability to purchase this Inclusionary Unit with the same favorable terms or at the Affordable Sales
Price noted below.

I/We fully understand and have been informed by the Agency of the following facts related to the
opportunity provided to purchase the Inclusionary Unit:

1. The unrestricted initial fair market value of the Inclusionary Unit based on a recent
appraisal is \$ _____.
2. I/We are being allowed the opportunity to qualify to purchase the Inclusionary Unit at the
reduced sales price of \$ _____ (the Affordable Sales Price recorded
as the official transaction price).
3. This represents a reduction of \$ _____ from the initial fair market
value;
4. I/We will enter into a Resale Restriction Agreement ("Resale Agreement") with the
Agency which gives qualifying Moderate Income Households ("Eligible Purchasers")
a right to buy the Inclusionary Unit at a reduced purchase price that equals the
Affordable Sales Price I/we paid adjusted overtime in accordance with the Agency's
formula for such adjustments.
5. I/We will sign an Agency Promissory Note payable to the Agency for the amount of any
rents collected in excess of what is allowed under the Resale Agreement or sales proceeds
collected in excess of the restricted resale amount under the Resale Agreement and it will
become a separate subordinate loan obligation that must be paid to the Agency, with
interest, if the Inclusionary Unit is sold for a price higher than an Affordable Sales Price
before the thirty (30)-year resale restriction period expires, or the Inclusionary Unit is
rented for more than two (2) months in a year or for more than the amount permitted under
the Resale Agreement.

6. I/We fully understand that if I/we sell the Inclusionary Unit during the first thirty (30) years, that I/we will not be able to sell the Inclusionary Unit at a full market price because the Resale Agreement gives Eligible Purchasers a right to buy the Inclusionary Unit at a reduced purchase price. If an Eligible Purchaser purchases the Inclusionary Unit in accordance with the requirements of the Resale Agreement and we are not otherwise in default of the Resale Agreement, the Agency will forgive the Agency Promissory Note.

7. I/We fully understand that the original primary mortgage loan of \$ _____ used to purchase this property may not be refinanced unless according to the Agency conditions listed in the Resale Agreement, and that it may only be replaced with a loan of equal or lesser value.

8. I/We fully understand that I/we must live in the Inclusionary Unit until the end of the Resale Agreement (i.e., thirty (30) years from the date of purchase) or the Inclusionary Unit is sold, whichever comes first.

9. I/We fully understand that the Contra Costa County Tax Assessor will use the restricted value of the Inclusionary Unit as represented in the Affordable Sales Price of \$ _____ to calculate property taxes for the property and that this amount may be adjusted by the Contra Costa County Tax Assessor as allowed by California Law.

Prior to close of escrow, I/We acknowledge that I/We have read and fully understand and comprehend this disclosure and the buyer documents provided by the Agency (Attachments ___ thru ___). I/We have no reservations regarding the terms or conditions that limit our use and ability to resell or refinance the Inclusionary Unit during the thirty (30)-year term of the Resale Agreement. I/We accept the terms and conditions noted in these documents.

Accepted: Buyer(s)

Buyer #1 Printed Name	Buyer #1 Signature	Date
Buyer #2 Printed Name	Buyer #2 Signature	Date

.....
 Return Original to Successor Agency to the Richmond Community Redevelopment Agency with Copies of all Attachments.

Provide one Copy to Buyer with copies of all Attachments.

**EXHIBIT 4.4.1.3
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF NOTICE OF AFFORDABILITY RESTRICTIONS

[See Attached]

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant to
Government Code Section 27383

NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY

This Notice of Affordability Restrictions on Transfer of Property (“**Notice**”), is dated as of _____, 201_ and is by and among the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”) [or **Agency’s successor or designee**] and MIRAFLORES COMMUNITY DEVCO, LLC (the “**Owner**”), with reference to the following:

1. Agency and the Owner have entered into that certain Regulatory Agreement and Declaration of Restrictive Covenants for Miraflores Housing Development Community (Market Rate Residential) of even date herewith (the “**Regulatory Agreement**”) with respect to that certain real property situated in the City of Richmond, County of Contra Costa, State of California, more particularly described and depicted in **Exhibit A** attached hereto (the “**Property**”).
2. The Regulatory Agreement includes affordability covenants and restrictions on the for-sale units on the Property.
3. The affordability covenants and restrictions included in the Regulatory Agreement expire on the date thirty (30) years from the date of the issuance of a Certificate of Occupancy for the development on the Property.
4. The street address of the Property is _____, Richmond, California.
5. The assessor’s parcel number for the Property is: _____.
6. This Notice is prepared for the purpose of recordation only, and it in no way modifies the provisions of the Regulatory Agreement.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties have executed this Notice of Affordability Restrictions on Transfer of Property as of the date first written above.

AGENCY:

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012
[or Agency's successor or designee]

OWNER:

MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

By: _____

Title: _____

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO
NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY**

LEGAL DESCRIPTION OF PROPERTY

[See Attached]

EXHIBIT A

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, AS SAID LOT 14 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF ALTA PUNTA TRACT", RECORDED APRIL 22, 1905, IN BOOK D OF MAPS, AT PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE NORTH 00°41'22" EAST 210.00 FEET; THENCE NORTH 89°18'38" WEST 100.00 FEET; THENCE NORTH 00°41'22" EAST 110.00 FEET; THENCE, NORTH 89°18'38" WEST 100.00 FEET TO THE EAST LINE OF SOUTH 47TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 279.30 FEET TO THE EASTERLY PROJECTION OF THE NORTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID EASTERLY PROJECTION AND SAID NORTH LINE, NORTH 89°18'38" WEST 297.45 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00°41'22" EAST 349.20 FEET; THENCE NORTH 89° 18' 38" WEST 212.55 FEET TO THE EAST LINE OF SOUTH 45TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 189.41 FEET TO THE SOUTH LINE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (B.A.R.T.) RIGHT-OF-WAY; THENCE ALONG SAID SOUTH LINE, SOUTH 89° 15' 04" EAST 428.25 FEET; THENCE LEAVING SAID SOUTH LINE, SOUTH 00°41'22" WEST 111.48 FEET; THENCE SOUTH 89°18'38" EAST 41.75 FEET; THENCE ALONG THE ARC OF A TANGENT 78.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 122.52 FEET; THENCE SOUTH 00°41'22" WEST 5.00 FEET; THENCE, SOUTH 89°18'38" EAST 18.17 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33°12'56", AN ARC DISTANCE OF 14.49 FEET; THENCE SOUTH 56°05'42" EAST 11.32 FEET; THENCE ALONG THE ARC OF A TANGENT 34.03 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 34°48'11", AN ARC DISTANCE OF 20.67 FEET; THENCE SOUTH 00°41'22" WEST 266.10 FEET; THENCE ALONG THE ARC OF A TANGENT 24.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°01'47", AN ARC DISTANCE OF 27.24 FEET; THENCE SOUTH 27°22'05" EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PNT); 513-330-001(PNT), 002(PNT), 005(PNT), 006(PNT), 007(PNT), 013 & 014

**EXHIBIT 4.4.1.4
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF AGENCY GRANT DEED

[See Attached]

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant to
Government Code Section 27383

AGENCY GRANT DEED

The Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012, herein called "Grantor," hereby grants to MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (the "Grantee") all of Grantor's right, interest title and claim to, the real property situated in the City of Richmond, County of Contra Costa, State of California, more particularly described in **Exhibit A** attached hereto (the "Property").

SUBJECT, however, to all of the terms, conditions, restrictions and covenants set forth in the Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), dated as of July 19, 2016 (the "DDA"), as may be amended, a copy of which is on file with the Agency Clerk, and to (a) taxes and assessments, both general and special, not now due and payable, and (b) any and all easements and rights-of-way of record. Notwithstanding the foregoing, Grantor makes no representations or warranties herein, express or implied, concerning the Property.

AND without limiting the foregoing, further subject to the following:

Section 1. Mandatory Language in All Subsequent Deeds and Leases.

The Grantee covenants and agrees, for itself and its successors and assigns, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Grantee itself or any person claiming under or through it 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 Property and the improvements thereon.

All deeds, leases or contracts made or entered into by Developer, its successors or assigns, as to any portion of the Property shall contain therein the following language:

(a) 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).”

(b) 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).”

(c) 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 2. Use and Maintenance.

For the Term of the DDA, the Grantee agrees to use, operate and maintain the Property and the improvements thereon in compliance with all requirement for operations and maintenance set forth in the DDA.

Section 3. Prohibition Against Transfer of Property and Assignment of DDA.

For the Term of the DDA, Grantee shall not, except as permitted under **Article 7** of the DDA, make or attempt any Transfer (as defined in the DDA) without the prior written approval of the Grantor.

Section 4. Enforcement.

THE COVENANTS CONTAINED IN **SECTIONS 1 THROUGH 3** OF THIS AGENCY GRANT DEED SHALL, WITHOUT REGARD TO TECHNICAL CLASSIFICATION OR DESIGNATION, LEGAL OR OTHERWISE SPECIFICALLY PROVIDED IN THIS AGENCY GRANT DEED, BE, TO THE FULLEST EXTENT PERMITTED BY LAW AND EQUITY, BINDING FOR THE BENEFIT AND IN FAVOR OF AND ENFORCEABLE BY THE GRANTOR, ITS SUCCESSOR AND ASSIGNS, AND ANY SUCCESSOR IN INTEREST TO THE GRANTOR THE PROPERTY AND IMPROVEMENTS OR ANY PART THEREOF, AND SUCH COVENANTS SHALL RUN IN FAVOR OF THE GRANTOR AND SUCH AFOREMENTIONED PARTIES FOR THE ENTIRE PERIOD DURING WHICH SUCH COVENANTS SHALL BE IN FORCE AND EFFECT, WITHOUT REGARD TO WHETHER THE GRANTOR IS OR REMAINS AN OWNER OF ANY LAND OR INTEREST THEREIN TO WHICH SUCH COVENANTS RELATE. IN THE EVENT OF ANY BREACH OF ANY OF

SUCH COVENANTS, THE GRANTOR AND SUCH AFOREMENTIONED PARTIES SHALL HAVE THE RIGHT TO EXERCISE ALL OF THE RIGHTS AND REMEDIES, AFTER ANY APPLICABLE NOTICE AND CURE PERIODS HAVE EXPIRED AND TO MAINTAIN ANY ACTIONS AT LAW OR SUITS IN EQUITY OR OTHER PROPERTY PROCEEDINGS TO ENFORCE THE CURING OF SUCH BREACH. THE COVENANTS IN **SECTION 1** SHALL REMAIN IN EFFECT IN PERPETUITY AND THE COVENANTS IN **SECTIONS 2 AND 3** ABOVE SHALL REMAIN IN EFFECT FOR THE PERIOD OF TIME SPECIFIED IN THE RESPECTIVE SECTIONS.

Section 5. Capitalized Terms.

Capitalized terms used in this Agency Grant Deed, if not otherwise defined, shall have the meaning given to such terms in the DDA.

Section 6. Counterparts.

This Grant Deed may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same Agency Grant Deed

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have executed this Agency Grant Deed this _____ day of _____, 201__.

GRANTOR:

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB IX 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

GRANTEE:

MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company

By: _____

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO
AGENCY GRANT DEED**

DESCRIPTION OF PROPERTY

[See Attached]

EXHIBIT A

Note: Final Description To be Consistent with Boundaries described in any final map or parcel map for the Project approved by the City.

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, AS SAID LOT 14 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF ALTA PUNTA TRACT", RECORDED APRIL 22, 1905, IN BOOK D OF MAPS, AT PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE NORTH 00°41'22" EAST 210.00 FEET; THENCE NORTH 89°18'38" WEST 100.00 FEET; THENCE NORTH 00°41'22" EAST 110.00 FEET; THENCE, NORTH 89°18'38" WEST 100.00 FEET TO THE EAST LINE OF SOUTH 47TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 279.30 FEET TO THE EASTERLY PROJECTION OF THE NORTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID EASTERLY PROJECTION AND SAID NORTH LINE, NORTH 89°18'38" WEST 297.45 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00°41'22" EAST 349.20 FEET; THENCE NORTH 89° 18' 38" WEST 212.55 FEET TO THE EAST LINE OF SOUTH 45TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 189.41 FEET TO THE SOUTH LINE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (B.A.R.T.) RIGHT-OF-WAY; THENCE ALONG SAID SOUTH LINE, SOUTH 89° 15' 04" EAST 428.25 FEET; THENCE LEAVING SAID SOUTH LINE, SOUTH 00°41'22" WEST 111.48 FEET; THENCE SOUTH 89°18'38" EAST 41.75 FEET; THENCE ALONG THE ARC OF A TANGENT 78.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 122.52 FEET; THENCE SOUTH 00°41'22" WEST 5.00 FEET; THENCE, SOUTH 89°18'38" EAST 18.17 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33°12'56", AN ARC DISTANCE OF 14.49 FEET; THENCE SOUTH 56°05'42" EAST 11.32 FEET; THENCE ALONG THE ARC OF A TANGENT 34.03 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 34°48'11", AN ARC DISTANCE OF 20.67 FEET; THENCE SOUTH 00°41'22" WEST 266.10 FEET; THENCE ALONG THE ARC OF A TANGENT 24.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°01'47", AN ARC DISTANCE OF 27.24 FEET; THENCE SOUTH 27°22'05" EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PNT); 513-330-001(PNT), 002(PNT), 005(PNT), 006(PNT), 007(PNT), 013 & 014

**EXHIBIT 4.4.1.8
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF DEVELOPER DATE-DOWN CERTIFICATE

[See Attached]

DEVELOPER DATE-DOWN CERTIFICATE
(MIRAFLORES COMMUNITY DEVCO, LLC)

This Developer Date-Down Certificate is made and delivered by MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (“**Developer**”), in favor of the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”) pursuant to that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), by and between Developer and Agency, dated July 19, 2016 (the “**DDA**”). Capitalized terms used but not defined in this Developer Date-Down Certificate shall have the meanings set forth in the DDA.

1. Developer hereby restates and reaffirms that all representations and warranties, made by Developer in the DDA, including but not limited to those representations and warranties as set forth in Section 9.2 of the DDA, are true, complete, and correct on and as of the Closing Date, with full force and affect as if set forth fully herein and made and delivered on the date hereof without any exception or qualification other than those expressly set forth in the DDA.

2. Developer hereby affirms, represents and warrants that Developer has performed or otherwise complied with all covenants, obligations, and conditions contained in the DDA that Developer is required to perform or otherwise comply with on or before the Closing, including but not limited to those conditions set forth in Article 2 of the DDA, without any exception or qualification other than those expressly set forth in the DDA.

Date: _____

DEVELOPER:

Miraflores Community Devco, LLC,
a California limited liability company

By: _____
Scott Hanks

Its _____

**EXHIBIT 4.4.2.8
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF AGENCY DATE-DOWN CERTIFICATE

[See Attached]

AGENCY DATE-DOWN CERTIFICATE
(MIRAFLORES COMMUNITY DEVCO, LLC)

This Agency Date-Down Certificate is made and delivered by MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (“**Developer**”), in favor of the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”) pursuant to that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), by and between Developer and Agency, dated July 19, 2016 (the “**DDA**”). Capitalized terms used but not defined in this Agency Date-Down Certificate shall have the meanings set forth in the DDA.

1. Agency hereby restates and reaffirms that all representations and warranties, made by Agency in the DDA, including but not limited to those representations and warranties as set forth in Section 9.1 of the DDA, are true, complete, and correct on and as of the Closing Date, with full force and affect as if set forth fully herein and made and delivered on the date hereof without any exception or qualification other than those expressly set forth in the DDA.

2. Agency hereby affirms, represents and warrants that Agency has performed or otherwise complied with all covenants, obligations, and conditions contained in the DDA that Agency is required to perform or otherwise comply with on or before the Closing, including but not limited to those conditions set forth in Article 3 of the DDA, without any exception or qualification other than those expressly set forth in the DDA.

Date: _____

AGENCY:

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB IX 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

**EXHIBIT 4.6.1.6-A
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF AGENCY OPTION AGREEMENT

[See Attached]

AGENCY OPTION AGREEMENT

This Agency Option Agreement (the “**Agreement**”) is entered into as of _____, 201__ (“**Effective Date**”), by and between the SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”), and MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (“**Developer**”).

RECITALS

A. Agency owns that certain real property located in the City of Richmond, County of Contra Costa, State of California, as more particularly described in **Exhibit A** attached hereto (the “**Property**”).

B. Agency and Developer are parties to that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), dated as of July 19, 2016 (the “**DDA**”), a Memorandum of which was recorded on _____, 2016, in the Official Records of Contra Costa County, as Instrument _____, pursuant to which Agency intends to convey the Property to Developer for the development of the Project as described therein. All capitalized terms not defined in this Agreement shall have the meanings given to them in the DDA.

C. The DDA includes certain conditions precedent that must be satisfied prior to Agency obligation to close transfer of the Property to Developer. Pursuant to Section 4.6.1.6 of the DDA, Agency may waive the condition precedent that the Conventional Construction Loan close concurrently with the Closing in accordance with the Approved Final Financing Plan if (a) the Conventional Construction Loan is substantially ready to close in accordance with the Approved Final Financing Plan and commitments therefor previously delivered to Agency, meaning substantially all documents for that purpose have been submitted to Escrow prior to the Closing Date and there are no conditions remaining to the draw-down of funds thereunder, other than the Closing and such other conditions as Agency may approve in its sole and absolute discretion; (b) the closing for the Conventional Construction Loan shall occur not more than forty-five (45) days after the Closing Date; and (c) prior to the Closing, Developer and Agency enter into an option agreement for Agency to re-acquire the Property if the Conventional Construction Loan has not closed within forty-five (45) days after the Closing Date.

D. In furtherance of the foregoing and effective as of the Closing, Developer and Agency agree to enter into this Agreement whereby Developer grants to Agency, the exclusive right and option to purchase the Property upon the specific terms and conditions set forth in this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES HEREBY AGREE AS FOLLOWS:

AGREEMENT

1. Grant of Option. Developer hereby grants to Agency the exclusive option to acquire the Property for the consideration and under the terms and conditions set forth in this Agreement (the “**Option**”).

2. Term of Option.

a. Term and Extension of Term. The term of the Option shall be for a period commencing on the date which is the forty-sixth (46th) day after the Closing Date and ending at midnight on the sixtieth (60th) day thereafter (the “**Option Term**”). Notwithstanding any contrary provision of this Agreement, the Option Term shall not commence and this Agreement shall have no force or effect if, prior to the Option Term, the Conventional Construction Loan has closed in accordance with the DDA.

b. Exercise of Option. At any time during, and prior to the expiration of, the Option Term, Agency may exercise the Option by giving written notice to Developer of its exercise of the Option (the “**Option Notice**”).

c. Expiration. At or around the time of Developer’s execution and delivery of this Agreement, Agency shall sign and deliver into escrow (i) a quitclaim deed or such other document in recordable form as may be reasonably required by Developer or the title company to evidence the termination of the Option and (ii) Agency’s instructions to record the quitclaim deed concurrently with the Conventional Construction Loan Closing.

3. Acquisition of the Property.

a. Purchase Price. On the date specified in the Option Notice (which shall not be earlier than one (1) nor later than thirty (30) days after the date of the Option Notice), Developer shall transfer the Property to Agency for the amount that Developer paid in cash to Agency for the purchase of the Property less the nonrefundable ERNA Deposit.

b. Execution of Deed. As soon as practicable, but in no event later than the date specified in the Option Notice for the transfer of the Property, Developer shall execute a grant deed (the “**Deed**”) which shall be recorded in the Official Records of the County of Contra Costa (the “**Official Records**”).

c. Expenses. All City and County documentary transfer tax and conveyance taxes to the extent they are not exempt pursuant to the Revenue and Taxation Code, and recording charges for the Deed (if any) shall be borne by Developer. The cost of the Title Policy (as defined below) shall be borne by Developer. All other expenses, fees or costs (except for attorneys' fees and costs) incurred in close of escrow for the transfer of the Property pursuant to this Agreement shall be borne by Developer. Each party shall bear its own attorneys' fees and costs.

d. Proration of Taxes. Real property taxes, if any, on the Property shall be prorated as of the date of recordation of the Deed. Mello-Roos and other like assessments on the Property shall be similarly prorated and Developer's share shall be fully paid prior to recordation of the Deed.

e. Title Insurance. Should Agency exercise the Option, no later than the time of the recording of the Deed pursuant to subsection b. above (“**Transfer Closing Date**”), Developer shall cause a title company of Agency's choice to issue a CLTA policy of title insurance (the “**Title Policy**”) insuring fee title to the Property to be vested in Agency, subject only to those encumbrances, conditions, or exceptions indicated in the Title Report (as defined and set forth in the DDA) or otherwise acceptable to Agency in its sole and absolute discretion (“**Permitted Exceptions**”). Permitted Exceptions shall not include any encumbrance, lien or other exception caused by Developer (unless caused with the prior approval of the Agency), including, without limitation, any security instruments securing debt on the Property.

4. Assignment of Option. Neither Developer nor Agency may assign its rights or obligations under this Agreement without the prior written consent of the other party.

5. Representations. Developer hereby represents and warrants to Agency that the following matters shall be true as of the Effective Date and the Option Notice date: (a) Developer has full power and authority to execute, deliver and perform this Agreement; (b) as of the Effective Date, Developer has not entered into any other agreement, and is not bound by any other agreement, which grants or purports to grant to any third party the option, right of first offer or first refusal or other right to purchase the Property or any portion thereof, and as of the Option Notice date, has not sold, conveyed, assigned or transferred any interest in this Agreement or the Property; (c) to the best of Developer's knowledge, without any independent investigation or duty of search or inquiry, Developer's execution, delivery and performance of this Agreement will not result in any material violation of, or default under, any term or condition of any agreement to which Developer is a party, or by which Developer is bound; (d) Developer has not received any notice that it or the Property is in material violation of any statute, law, judgment, order or regulation applicable to Developer or the Property; and (e) to the best of Developer's knowledge, without any independent investigation or duty of inquiry, Developer's execution and delivery of this Agreement will not result in the material violation of any statute, law, judgment, order or regulation applicable to Developer.

6. Indemnification. Developer agrees to indemnify, defend (with counsel reasonably acceptable to Agency), protect and hold harmless Agency and Agency Parties, from and against any and all Claims, directly or indirectly arising out of or resulting from any transaction, act, omission, event or circumstance of or caused by Developer or its agents, employees, representatives or contractors in any way connected with the Property, including but not limited to any such arising out of or resulting from (A) Developer's ownership, use or operation of the Property, or (B) any construction activity at the Property, all as set forth in the DDA.

7. Further Documents. Upon the reasonable request of the other party, each party will execute, acknowledge and deliver or cause to be executed, acknowledged and delivered, such

further instruments and documents as may be reasonably necessary in order to carry out the intent and purpose of this Agreement, including escrow instructions.

8. Notices. All notices or other communications made pursuant to this Agreement shall be in writing and shall be deemed properly delivered, given or served to the parties at the following addresses when (a) mailed by certified mail, postage prepaid, return receipt requested; (b) sent by express delivery service, charges prepaid with a delivery receipt; or (c) personally delivered when a delivery receipt is obtained:

AGENCY:

Successor Agency to the Richmond Community
Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director
Telephone No.: (510) 620-6512
Facsimile No.: (510) 620-6542

WITH A COPY TO:

City Attorney's Office
450 Civic Center Plaza
Richmond, CA 94804
Attn: Attorney for the Successor Agency to Richmond CRA
Telephone No.: (510) 620-6509
Facsimile No.: (510) 620-6518

DEVELOPER:

Miraflores Community Devco, LLC,
a California limited liability company
5 Thomas Mellon Circle, Suite 117
San Francisco, CA 94134
Attn: Scott Hanks
Telephone No.: (415) 840-2303
Email: shanks@sdccompanies.com

WITH A COPY TO:

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Attn: David Gold, Esq.
Telephone No.: (415) 268-7000
Facsimile No.: (415) 276-7361

All notices so delivered, mailed or sent shall be deemed received as of the date shown on the delivery receipt as the date of delivery, the date delivery was refused or the date the notice was returned as undeliverable. Either party may change its address for the purposes of this paragraph by giving prior written notice of the change to the other party in the manner provided in this paragraph.

9. Binding Effect. This Agreement and its terms and conditions shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

10. Time. Time is of the essence of this Agreement.

11. Attorneys' Fees. In any action between Agency and Developer to enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to recover costs of suit and expenses, including, without limitation, reasonable attorneys' fees.

12. Eminent Domain. Notwithstanding any other provision of this Agreement, if at any time prior to execution and recordation of the Deed, any portion of the Property shall be taken by eminent domain or is the subject of eminent domain proceedings (either threatened in writing or commenced), and regardless of whether Agency has exercised the Option, then Agency shall have the right to terminate this Agreement upon written notice to Developer, whereupon the parties shall have no further obligations under this Agreement.

13. Exhibits. All exhibits attached to this Agreement and referred to in this Agreement are incorporated into this Agreement by this reference as though they were fully set forth in this Agreement.

14. Captions. The captions of the paragraphs of this Agreement are for convenience and reference only, and the words contained in the captions shall in no way be held to explain, modify, amplify or aid in the interpretations, constructions or meaning of the provisions of this Agreement.

15. Conflict with DDA; No Limitation on Rights or Remedies. In the event of any conflict between the provisions of this Agreement and the provisions of the DDA, the provisions of the DDA shall control to the extent of such conflict. Nothing herein, including, without limitation, Agency's exercise of its rights under this Agreement, shall be deemed to limit or impair any rights or remedies of Agency under the DDA.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.

17. Entire Agreement; Signatures. This Agreement contains the entire agreement between the parties respecting the matters set forth, and supersedes all prior agreements between the parties respecting such matters.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Agency and Developer have executed this Agreement as of the date first written above.

AGENCY:

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012

BY: _____
EXECUTIVE DIRECTOR

ATTEST:

BY: _____
CLERK OF THE AGENCY

REVIEWED BY:

BY: _____
AGENCY ATTORNEY

DEVELOPER:

MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company

BY: _____
Scott Hanks

ITS: _____

**EXHIBIT A
TO
AGENCY OPTION AGREEMENT**

DESCRIPTION OF PROPERTY

[See Attached]

EXHIBIT A

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, AS SAID LOT 14 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF ALTA PUNTA TRACT", RECORDED APRIL 22, 1905, IN BOOK D OF MAPS, AT PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE NORTH 00°41'22" EAST 210.00 FEET; THENCE NORTH 89°18'38" WEST 100.00 FEET; THENCE NORTH 00°41'22" EAST 110.00 FEET; THENCE, NORTH 89°18'38" WEST 100.00 FEET TO THE EAST LINE OF SOUTH 47TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 279.30 FEET TO THE EASTERLY PROJECTION OF THE NORTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID EASTERLY PROJECTION AND SAID NORTH LINE, NORTH 89°18'38" WEST 297.45 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00°41'22" EAST 349.20 FEET; THENCE NORTH 89° 18' 38" WEST 212.55 FEET TO THE EAST LINE OF SOUTH 45TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 189.41 FEET TO THE SOUTH LINE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (B.A.R.T.) RIGHT-OF-WAY; THENCE ALONG SAID SOUTH LINE, SOUTH 89° 15' 04" EAST 428.25 FEET; THENCE LEAVING SAID SOUTH LINE, SOUTH 00°41'22" WEST 111.48 FEET; THENCE SOUTH 89°18'38" EAST 41.75 FEET; THENCE ALONG THE ARC OF A TANGENT 78.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 122.52 FEET; THENCE SOUTH 00°41'22" WEST 5.00 FEET; THENCE, SOUTH 89°18'38" EAST 18.17 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33°12'56", AN ARC DISTANCE OF 14.49 FEET; THENCE SOUTH 56°05'42" EAST 11.32 FEET; THENCE ALONG THE ARC OF A TANGENT 34.03 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 34°48'11", AN ARC DISTANCE OF 20.67 FEET; THENCE SOUTH 00°41'22" WEST 266.10 FEET; THENCE ALONG THE ARC OF A TANGENT 24.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°01'47", AN ARC DISTANCE OF 27.24 FEET; THENCE SOUTH 27°22'05" EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PTN); 513-330-001(PTN), 002(PNT), 005(PTN), 006(PTN), 007(PTN), 013 & 014

**EXHIBIT 4.6.1.6-B
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF MEMORANDUM OF AGENCY OPTION AGREEMENT

[See attached]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant to
Government Code Section 27383

MEMORANDUM OF OPTION AGREEMENT

DATED: _____, 20__

BETWEEN

DEVELOPER: Miraflores Community Devco, LLC,
a California limited liability company

_____, California _____
Attention: _____

AND AGENCY: The Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attention: Agency Executive Director

Developer has entered into that certain Agency Option Agreement with Agency, dated as of _____, 2016 (the “**Option Agreement**”), in which Developer has granted to Agency the option (the “**Option**”) to purchase certain real property owned by Developer situated in the City of Richmond, County of Contra Costa, State of California, described in **Exhibit A** attached hereto (the “**Property**”).

By the execution and recording of this Memorandum of Option Agreement, Developer and Agency desire to give notice to the public of the Option Agreement.

The names and addresses of Developer and Agency are as set forth in the first paragraph of this Memorandum. The Property covered by this Memorandum of Option Agreement is as set forth in the first paragraph of this Memorandum.

The terms of the Option and the rights and obligations of the parties are set forth in full in the Option Agreement, the provisions of which are incorporated in this Memorandum by this reference as if set out in full. This Memorandum is prepared for the purpose of recordation only and nothing in this Memorandum shall constitute or be construed as constituting an agreement, revision, or modification to the Option Agreement or the respective rights or obligations of the parties under the Option Agreement.

This Memorandum of Option may be executed simultaneously or in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, this Memorandum of Option Agreement has been duly executed as of the day and year first above written.

AGENCY:

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

DEVELOPER:

MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company

By: _____

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

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WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO
MEMORANDUM OF OPTION AGREEMENT**

LEGAL DESCRIPTION OF PROPERTY

[See Attached]

EXHIBIT A

Note: Final Description To be Consistent with Boundaries described in any final map or parcel map for the Project approved by the City.

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, AS SAID LOT 14 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF ALTA PUNTA TRACT", RECORDED APRIL 22, 1905, IN BOOK D OF MAPS, AT PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE NORTH 00°41'22" EAST 210.00 FEET; THENCE NORTH 89°18'38" WEST 100.00 FEET; THENCE NORTH 00°41'22" EAST 110.00 FEET; THENCE, NORTH 89°18'38" WEST 100.00 FEET TO THE EAST LINE OF SOUTH 47TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 279.30 FEET TO THE EASTERLY PROJECTION OF THE NORTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID EASTERLY PROJECTION AND SAID NORTH LINE, NORTH 89°18'38" WEST 297.45 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00°41'22" EAST 349.20 FEET; THENCE NORTH 89° 18' 38" WEST 212.55 FEET TO THE EAST LINE OF SOUTH 45TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 189.41 FEET TO THE SOUTH LINE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (B.A.R.T.) RIGHT-OF-WAY; THENCE ALONG SAID SOUTH LINE, SOUTH 89° 15' 04" EAST 428.25 FEET; THENCE LEAVING SAID SOUTH LINE, SOUTH 00°41'22" WEST 111.48 FEET; THENCE SOUTH 89°18'38" EAST 41.75 FEET; THENCE ALONG THE ARC OF A TANGENT 78.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 122.52 FEET; THENCE SOUTH 00°41'22" WEST 5.00 FEET; THENCE, SOUTH 89°18'38" EAST 18.17 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33°12'56", AN ARC DISTANCE OF 14.49 FEET; THENCE SOUTH 56°05'42" EAST 11.32 FEET; THENCE ALONG THE ARC OF A TANGENT 34.03 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 34°48'11", AN ARC DISTANCE OF 20.67 FEET; THENCE SOUTH 00°41'22" WEST 266.10 FEET; THENCE ALONG THE ARC OF A TANGENT 24.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°01'47", AN ARC DISTANCE OF 27.24 FEET; THENCE SOUTH 27°22'05" EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PTN); 513-330-001(PTN), 002(PNT), 005(PTN), 006(PTN), 007(PTN), 013 & 014

**EXHIBIT 4.6.1.6-C
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF TERMINATION OF AGENCY OPTION AGREEMENT

[See Attached]

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant to
Government Code Section 27383

**AGENCY QUITCLAIM DEED TO
TERMINATE OPTION AGREEMENT**

For valuable consideration, receipt of which is hereby acknowledged, the SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (the “Grantor”) hereby remises, releases, and forever quitclaims to MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (the “Grantee”) any and all of Grantor’s right, title and interest under that certain Option Agreement dated _____, 20__, and recorded on _____, 20__, in the Official Records of Contra Costa County, as Instrument _____ (the “Option Agreement”), against that certain real property located in the City of Richmond, County of Contra Costa, State of California, more particularly described in **Exhibit A** attached hereto and incorporated herein by reference (the “Property”).

RECITALS

1. Grantee acquired the Property from Grantor pursuant to that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) dated July 19, 2016, between Grantor and Grantee (the “DDA”), a Memorandum of which was recorded on _____, 2016, in the Official Records of Contra Costa County, as Instrument _____.
2. Pursuant to the DDA, Grantee and Grantor entered into the Option Agreement for the Property which could only be exercised by the Grantor if Grantee did not close on a conventional construction loan in accordance with an approved final financing plan within forty-five (45) days after the closing date as set forth in the DDA (the “Conventional Construction Loan”).
3. Grantee has timely closed on the Conventional Construction Loan and accordingly the Option Agreement is no longer in effect.
4. This Quitclaim Deed is intended **only** to terminate Grantor’s rights under the Option Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, Grantor has caused this Quitclaim Deed to be executed on its behalf by its respective officers thereunto duly authorized this ____ day of _____, 20__.

GRANTOR:

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB IX 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

GRANTEE:

MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company

By: _____
Scott Hanks

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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STATE OF CALIFORNIA)

COUNTY OF _____)

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STATE OF CALIFORNIA)

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO
AGENCY QUITCLAIM DEED**

DESCRIPTION OF PROPERTY

[See Attached]

EXHIBIT A

Note: Final Description To be Consistent with Boundaries described in any final map or parcel map for the Project approved by the City.

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

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PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PNT); 513-330-001(PNT), 002(PNT), 005(PNT), 006(PNT), 007(PNT), 013 & 014

**EXHIBIT 4.7.1.1
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

TITLE REPORT

[See Attached]



OLD REPUBLIC
TITLE COMPANY

555 12th Street, Suite 2000
Oakland, CA 94607
(510) 272-1121 Fax: (510) 208-5045

PRELIMINARY REPORT

AMENDED

CITY OF RICHMOND
450 Civic Center Plaza
Richmond, CA 94804

Our Order Number 1117016948-JM

Attention: ALAN WOLKEN

When Replying Please Contact:

Julie Massey
JMassey@ortc.com
(510) 272-1121

Property Address:

Miraflores, Richmond, CA 94804

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE COMPANY, as Issuing Agent of Old Republic National Title Insurance Company, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit I attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit I. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit I of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of June 29, 2016, at 7:30 AM

OLD REPUBLIC TITLE COMPANY
For Exceptions Shown or Referred to, See Attached

Page 1 of 14 Pages

ORT 3158-A (Rev. 08/07/08)

OLD REPUBLIC TITLE COMPANY
ORDER NO. 1117016948-JM
AMENDED

The form of policy of title insurance contemplated by this report is:

CLTA Standard Coverage Policy -1990. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Fee

Title to said estate or interest at the date hereof is vested in:

The City of Richmond, as Successor Agency to the Richmond Community Redevelopment Agency, a public body corporate and politic

The land referred to in this Report is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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Page 2 of 14 Pages

ORT 3158-R

OLD REPUBLIC TITLE COMPANY
ORDER NO. 1117016948-JM
AMENDED

EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

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APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PTN); 513-330-001(PTN), 002(PNT), 005(PTN), 006(PTN), 007(PTN), 013 & 014

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

1. Taxes and assessments, general and special, for the fiscal year 2016 - 2017, a lien, but not yet due or payable.

CORRECTED BILL:

2. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-321-001	
Bill No.	: 2	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$2,559,163.00	

3. Taxes and assessments, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No	: 513-321-002	
Bill No.	: 331955	
Code No.	: 08-133	
1st Installment	: \$16.00	Marked Paid
2nd Installment	: \$16.00	Marked Paid
Land Value	: \$97,878.00	

OLD REPUBLIC TITLE COMPANY
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CORRECTED BILL:

4. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-321-003	
Bill No.	: 8	
Code No.	: 08-133	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$853,835.00	

CORRECTED BILL:

5. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-322-024	
Bill No.	: 3	
Code No.	: 08-133	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$65,274.00	

CORRECTED BILL:

6. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-322-037	
Bill No.	: 5	
Code No.	: 08-133	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$65,274.00	

CORRECTED BILL:

7. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-322-038	
Bill No.	: 3	
Code No.	: 08-133	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$211,498.00	

OLD REPUBLIC TITLE COMPANY
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CORRECTED BILL:

8. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-322-023	
Bill No.	: 5	
Code No.	: 08-133	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$48,302.00	

CORRECTED BILL:

9. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-322-025	
Bill No.	: 0	
Code No.	: 08-133	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$32,635.00	

CORRECTED BILL:

10. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-330-001	
Bill No.	: 1	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$1,018,360.00	

CORRECTED BILL:

11. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-330-002	
Bill No.	: 9	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$1,626,030.00	

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CORRECTED BILL:

12. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-330-003	
Bill No.	: 7	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$303,088.00	

CORRECTED BILL:

13. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-330-006	
Bill No.	: 0	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$245,651.00	

CORRECTED BILL:

14. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-330-007	
Bill No.	: 8	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$302,030.00	

CORRECTED BILL:

15. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-330-013	
Bill No.	: 6	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$28,312.00	

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CORRECTED BILL:

16. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-330-014	
Bill No.	: 4	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$137,455.00	

CORRECTED BILL:

17. Taxes and assessment, general and special, for the fiscal year 2015 - 2016, as follows:

Assessor's Parcel No.	: 513-330-005	
Bill No.	: 2	
Code No.	: 08-127	
1st Installment	: \$0.00	NO TAX DUE
2nd Installment	: \$0.00	NO TAX DUE
Land Value	: \$682,237.00	

18. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.

19. Any right, title or interest of the public, and/or private parties in that portion of the property lying within the lines of South 47th Street.

20. Release and relinquishment of abutter's or access rights to and from East Shore Freeway, upon which premises abuts, together with waiver of damages by reason of construction or maintenance of a freeway, as follows:

Instrument Entitled	: Grant Deed
To	: State of California
Recorded	: April 22, 1952 in Book 1922 of Official Records, Page 38

21. Release and relinquishment of abutter's or access rights to and from adjacent freeway, upon which premises abuts, together with waiver of damages by reason of construction or maintenance of a freeway, as follows:

Instrument Entitled	: Deed
Recorded	: July 23, 1954 in Book 2353 of Official Records, Page 130

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22. Release and relinquishment of abutter's or access rights to and from highway and/or freeway, upon which premises abuts, as follows:
- To : State of California
Recorded : [July 23, 1954 in Book 2353 of Official Records, Page 134](#)
23. Release and relinquishment of abutter's or access rights to and from highway and/or freeway, upon which premises abuts, as follows:
- To : State of California
Recorded : [April 17, 1958 in Book 3149 of Official Records, Page 320](#)
24. Private easements for ingress and egress to and from Wick Avenue in favor of the owners of other lots on the Map herein referred to, such easements having been acquired under conveyances of lots by reference to said Map.
25. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following
- Instrument : Order of Vacation No. 649
Reserved By : City of Richmond
For : Sanitary sewer
Recorded : [April 18, 1962 in Book 4100 of Official Records, Page 312](#)
Affects : A portion of Parcel One
26. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following
- Instrument : Order of Vacation No. 649
Reserved By : City of Richmond to Pacific Gas and Electric Company, owner of existing electrical facilities
For : Electrical facilities
Recorded : [April 18, 1962 in Book 4100 of Official Records, Page 312](#)
Affects : A portion of Parcel One
27. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following
- Granted To : City of Richmond
For : Storm drainage and public utilities
Recorded : [March 28, 1963 in Book 4332 of Official Records, Page 482](#)
Affects : a portion of the premises

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28. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : Resolution No. 50-70
Granted To : City of Richmond
For : Permanent drainage
Recorded : [October 6, 1970 in Book 6228 of Official Records, Page 19 under Recorder's Serial Number 65867](#)
Affects : a portion of Parcel One

29. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : Resolution No. 51-70
Granted To : City of Richmond
For : Permanent drainage
Recorded : [October 6, 1970 in Book 6228 of Official Records, Page 22 under Recorder's Serial Number 65858](#)
Affects : A portion of Parcel One

30. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : Resolution No. 52-70
Granted To : City of Richmond
For : Exclusive permanent drainage
Recorded : [October 6, 1970 in Book 6228 of Official Records, Page 25 under Recorder's Serial Number 65869](#)
Affects : a portion of Parcel One

31. Terms and provisions as contained in an instrument,

Entitled : Ordinance No. 97-22 - Adoption of West Contra Costa Subregional Transporaton Mitigation Fees
Recorded : [August 20, 1997 in Official Records under Recorder's Serial Number 97-150589](#)

OLD REPUBLIC TITLE COMPANY
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32. An unrecorded lease upon the terms, covenants, and conditions contained or referred to therein,

Lessor : Tetsuma Sakai et al
Lessee : Nextel of California Inc., a Delaware corporation
Disclosed by : Memorandum of Agreement
Recorded : [October 15, 1998 in Official Records under Recorder's Serial Number 98-0251493](#)

NOTE: The present ownership of said leasehold or leaseholds and other matters affecting the interest of the lessee or lessees are not shown herein.

33. Redevelopment Plan, as follows:

Entitled : Statement of Institution of Amended and Restated Redevelopment Plan for Richmond Merged Redevelopment Project Area
Executed By : Richmond Community Redevelopment Agency
Recorded : [May 20, 2010 in Official Records under Recorder's Serial Number 2010-0191684](#)

34. Matters as contained or referred to in an instrument,

Entitled : Memorandum of Easement Agreement
Executed By : Richmond Community Redevelopment Agency, a public body corporate and politic, and Sakai Children Co., et al
Recorded : [January 11, 2012 in Official Records under Recorder's Serial Number 2012-0006847](#)

35. Matters as contained or referred to in an instrument,

Entitled : Grant Deed
Executed By : The City of Richmond, as Successor Agency to Richmond Community Redevelopment Agency, a public body corporate and politic
Recorded : [August 4, 2015 in Official Records under Recorder's Serial Number 2015-0161774](#)
Which Among Other Things Provides : Conditions pertaining to lot line adjustment PLN15-369

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36. The effect of an Option and Land Lease Agreement, upon the terms, covenants and conditions contained therein,

Dated: December 9, 2015

Lessor: Sakai Children Co., a California general partnership, et al

Lessee: GTE Mobilnet of California Limited Partnership, a California limited partnership

Disclosed by: Memorandum of Option and Lease Agreement

Recorded: December 22, 2015 in Official Records under Recorder's Series [No.2015-0262380](#)

NOTE: Said lessor had no record interest in said land at the time of recording

37. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
38. Any unrecorded and subsisting leases.
39. The requirement that this Company be provided with a suitable Owner's Declaration (form ORT 174). The Company reserves the right to make additional exceptions and/or requirements upon review of the Owner's Declaration.
40. The requirement that satisfactory evidence be furnished to this Company of compliance with applicable statutes, ordinances and charters governing the ownership and disposition of the herein described land.

----- **Informational Notes** -----

- A. The applicable rate(s) for the policy(s) being offered by this report or commitment appears to be section(s) tbd.

OLD REPUBLIC TITLE COMPANY
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B. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument
Entitled : Individual Grant Deed
By/From : Chieko Endo, Surviving Trustee of the Endo Family Trust dated October 19, 2001, and Miyuki Endo, a widow
To : Richmond Community Redevelopment Agency, a public body corporate and politic
Dated : June 21, 2006
Recorded : [June 30, 2006 in Official Records under Recorder's Serial Number 2006-0208783](#)

Individual Grant Deed executed by Joe Oishi, Trustee of the Joe Oishi Revocable Trust; Fumiko Oishi, aka Fumi Oishi, individually, and as Successor Trustee of the Oishi Family Living Trust dated 1-19-95; and Tom Oishi, Trustee of Tom and Shizue Oishi Revocable Trust dated 7-05-96, also known as the 1996 Oishi Rev Trust, as their interest may appear of record to Richmond Community Redevelopment Agency, a public body corporate and politic recorded [June 30, 2006 in Official Records under Recorder's Serial Number 2006-0208785](#).

Individual Grant Deed executed by Sakai Children Co., a California general partnership; Shigeko Sakai, Trustee of the Roy and Shigeko Sakai Trust; Sam I. Sakai and Charlotte Sakai, Trustees of the Sam I. Sakai Trust under instrument dated August 27, 1996; and Sam I. Sakai and Charlotte T. Sakai, Trustees for Testamentary Trust under the terms of the Will of Nellie H. Sakai, as established by Decree of Distribution entered October 7, 1987, in the Superior Court of the State of California in and for the County of Contra Costa, in the Matter of the Estate of Nellie H. Sakai, deceased, Probate No. 67267, as their interest appear of record to Richmond Community Redevelopment Agency, a public body corporate and politic recorded [June 30, 2006 in Official Records under Recorder's Serial Number 2006-0208787](#).

Grant Deed executed by The City of Richmond, as Successor Agency to Richmond Community Redevelopment Agency, a public body corporate and politic to The City of Richmond, as Successor Agency to Richmond Community Redevelopment Agency, a public body corporate and politic recorded [August 4, 2015 in Official Records under Recorder's Serial Number 2015-0161774](#).

OLD REPUBLIC TITLE COMPANY
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- C. All transactions that close on or after March 1, 2015 will include a \$20.00 minimum recording service fee, plus actual charges required by the County Recorder.

O.N.
CK/dmu

OLD REPUBLIC TITLE COMPANY
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If you anticipate having funds wired to Old Republic Title Company, our wiring information is as follows: Union Bank of California, 1980 Saturn, Monterey Park, CA 91755, credit to the account of Old Republic Title Company, Account Number 9100096193, ABA Number 122000496.

When instructing the financial institution to wire funds, it is very important that you reference Old Republic Title's Order Number 1117016948.

**PLEASE CONTACT YOUR ESCROW OFFICER IF YOU RECEIVE NOTICE OF A
CHANGE TO THESE WIRE INSTRUCTIONS**

ON-LINE BANKING TRANSFERS ARE NOT THE SAME

"Electronic Funds Transfer" is a generic term for funds transfers, one of which is an ACH Transfer. On-line banking transfers are often completed through an ACH Transfer, not a Wire Transfer. Old Republic Title rejects all ACH Transfers and returns the funds to the sender (Government Entities/Agencies excluded.) Close of Escrow may be significantly delayed as a result of an ACH Transfer.

**OLD REPUBLIC TITLE DOES NOT AUTHORIZE FUNDS TO BE DEPOSITED DIRECTLY
INTO OUR ACCOUNT AT Union Bank of California LOCAL BRANCH LOCATIONS**

Funds deposited directly into an account of Old Republic Title Company at a Union Bank of California branch are subject to verification. Verification of unauthorized deposits is not immediate or automated following deposit. Delay in credit of funds to an escrow and delay in Close of Escrow may result.

If you want to transfer funds by Wire Transfer from a non-United States financial institution, or have questions with regard to acceptable funds, please contact your Escrow or Title Officer immediately.

Exhibit I

**CALIFORNIA LAND TITLE ASSOCIATION
STANDARD COVERAGE POLICY - 1990
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.-

(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land which may be asserted by persons in possession thereof,
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

OLD REPUBLIC TITLE COMPANY

Privacy Policy Notice

PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of OLD REPUBLIC TITLE COMPANY

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you such as on applications or other forms.
- Information about your transactions we secure from our files, or from [our affiliates or] others.
- Information we receive from a consumer reporting agency.
- Information that we receive from others involved in your transaction, such as the real estate agent or lender.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to nonaffiliated third parties as permitted by law.

We also may disclose this information about our customers or former customers to the following types of nonaffiliated companies that perform marketing services on our behalf or with whom we have joint marketing agreements:

- Financial service providers such as companies engaged in banking, consumer finance, securities and insurance.
- Non-financial companies such as envelope stuffers and other fulfillment service providers.

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

ORT 287-C 5/07/01

Disclosure to Consumer of Available Discounts

Section 2355.3 in Title 10 of the California Code of Regulation necessitates that Old Republic Title Company provide a disclosure of each discount available under the rates that it, or its underwriter Old Republic National Title Insurance Company, have filed with the California Department of Insurance that are applicable to transactions involving property improved with a one to four family residential dwelling.

You may be entitled to a discount under Old Republic Title Company's escrow charges if you are an employee or retired employee of Old Republic Title Company including its subsidiary or affiliated companies or you are a member in the California Public Employees Retirement System "CalPERS" or the California State Teachers Retirement System "CalSTRS" and you are selling or purchasing your principal residence.

If you are an employee or retired employee of Old Republic National Title Insurance Company, or it's subsidiary or affiliated companies, you may be entitled to a discounted title policy premium.

Please ask your escrow or title officer for the terms and conditions that apply to these discounts.

A complete copy of the Schedule of Escrow Fees and Service Fees for Old Republic Title Company and the Schedule of Fees and Charges for Old Republic National Title Insurance Company are available for your inspection at any Old Republic Title Company office.

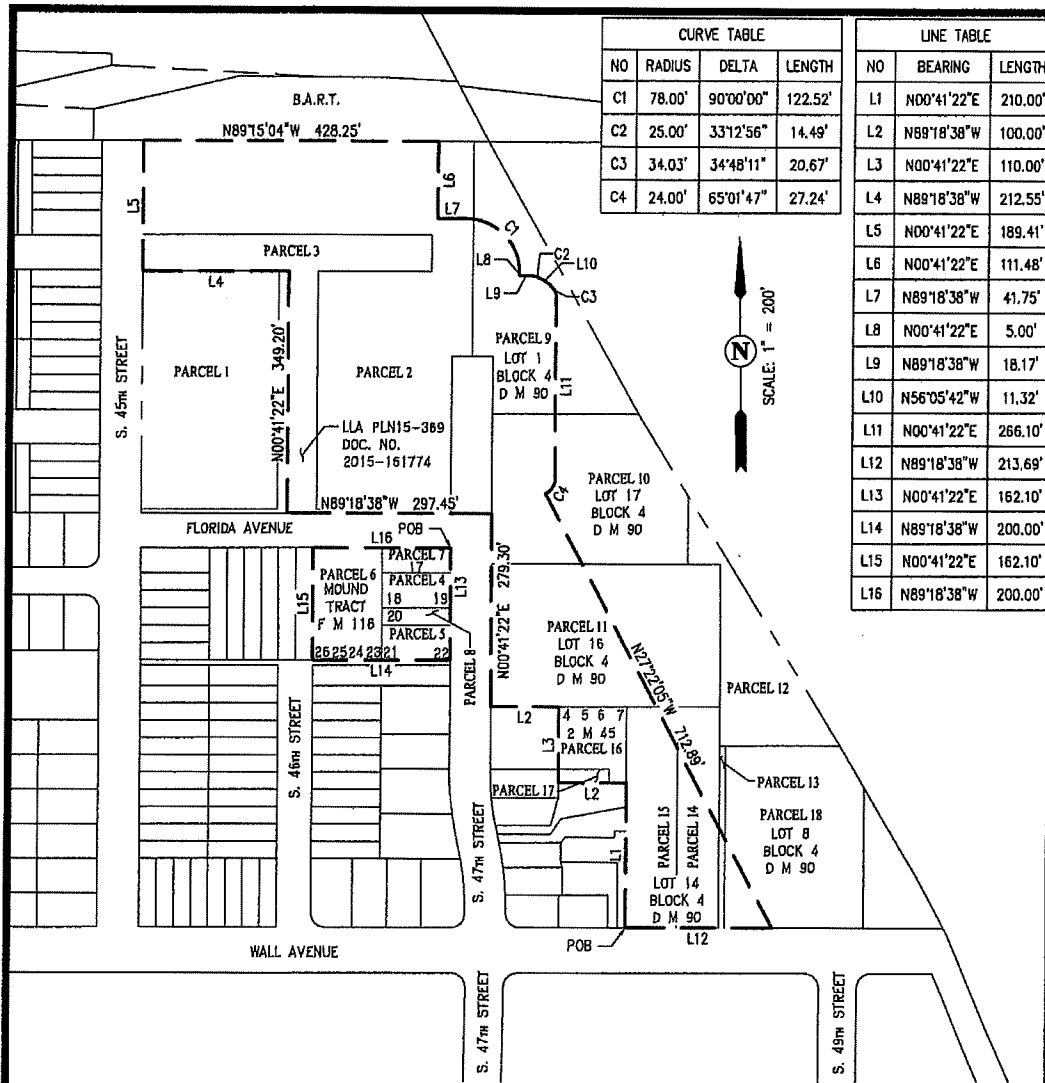


EXHIBIT B
PLAT TO ACCOMPANY LEGAL DESCRIPTION

AREA DESCRIPTION
 RICHMOND, CALIFORNIA
 JULY 5, 2016

SHEET 1 OF 1

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

SAN RAMON • (925) 856 - 0322
 SACRAMENTO • (916) 375 - 1877

7/6/2016 10:02 AM

**EXHIBIT 4.10.1
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

LIST OF CERTAIN ENVIRONMENTAL REPORTS

[See Attached]

	Type	Date	Author	Description
1.	Plan	3/1/2001	PES	Remedial Action Health and Safety Plan
2.	Plan	3/1/2001	PES	Remedial Design and Implementation Plan
3.	Memo	8/13/2004	PES	Memo re Findings of Geophysical Anomalies Investigation
4.	Memo	8/26/2004	PES	Memo re Preliminary Remedial Alternative Evaluation and Budgetary Cost Estimates Soil and Groundwater Remediation
5.	Report	9/20/2004	PES	Building Materials Survey for Asbestos, Lead-Based Paint and Polychlorinated Biphenyls
6.	Report	10/20/2004	PES	Phase I Environmental Site Assessment
7.	Report	5/10/2005	PES	Supplemental Investigation Report
8.	Memo	8/25/2005	PES	Memo re Summary of Comparison of Peng Leong and PES Estimates for Conducting Remediation
9.	Letter	9/16/2005	PES	Letter to John's Excavating re Request for Bid Soil Remediation
10.	Letter	5/30/2006	PES	Letter to DECON re Revised Request for Bid
11.	Memo	6/6/2006	PES	Memo re Summary of Remedial Actions
12.	Memo	6/8/2006	PES	Memo re Summary of Remedial Actions
13.	Report	6/19/2006	PES	First Quarter 2006 Groundwater Monitoring Report
14.	Report	10/4/2006	PES	Second Quarter 2006 Groundwater Monitoring Report
15.	Report	11/15/2006	PES	Third Quarter 2006 Groundwater Monitoring Report
16.	Report	11/20/2006	PES	Pre-Demolition Building Materials Survey for Asbestos and Lead-Based Paint

17.	Report	2/27/2007	PES	Fourth Quarter 2006 Groundwater Monitoring Report
18.	Report	5/31/2007	PES	First Quarter 2007 Groundwater Monitoring Report
19.	Report	8/31/2007	PES	Second Quarter 2007 Groundwater Monitoring Report
20.	Report	11/29/2007	PES	Third Quarter 2007 Groundwater Monitoring Report
21.	Report	2/29/2008	PES	Fourth Quarter 2007 Groundwater Monitoring Report
22.	Report	5/30/2008	PES	First Semi-Annual 2008 Groundwater Monitoring Report
23.	Report	6/9/2009	PES	First Semi-Annual 2009 Groundwater Monitoring Report
24.	Letter	9/25/2008	PES	Letter re Phase I Environmental Site Assessment
25.	Letter	10/16/2008	PES	Letter re Phase I Environmental Site Assessment
26.	Report	12/4/2008	PES	Second Semi-Annual 2008 Groundwater Monitoring Report
27.	Report	4/23/2009	PES	Phase I Environmental Site Assessment Carey Property
28.	Report	6/11/2009	PES	Draft Remedial Action Plan
29.	Report	12/23/2009	PES	Second Semi-Annual 2009 Groundwater Monitoring Report
30.	Plan	12/29/2009	PES	Remedial Action Plan
31.	Chronology	1/14/2010	PES	Chronology of Environmental Investigation
32.	Bid	4/16/2010	Eden Housing	Request for Bid for Hazardous Building Materials Abatement, Relocation of Historical Structures and Building Demolition

33.	Bid	5/13/2010	Eden Housing	Request for Bid Addendum No. 1 for Hazardous Building Materials Abatement, Relocation of Historical Structures and Building Demolition
34.	Bid	5/26/2010	Eden Housing	Request for Bid Addendum No. 2 for Hazardous Building Materials Abatement, Relocation of Historical Structures and Building Demolition
35.	Bid	6/10/2010	Eden Housing	Request for Bid for Soil Remediation
36.	Bid	6/11/2010	Eden Housing	Request for Bid Addendum No. 3 for Hazardous Building Materials Abatement, Relocation of Historical Structures and Building Demolition
37.	Report	6/21/2010	PES	First Semi-Annual 2010 Groundwater Monitoring Report
38.	Plan	12/1/2010	PES	Storm Water Pollution Prevention Plan
39.	Report	12/10/2010	PES	Second Semi-Annual 2010 Groundwater Monitoring Report
40.	Plan	3/1/2011	PES	Storm Water Pollution Prevention Plan
41.	Report	3/1/2011	PES	Remedial Design and Implementation Plan
42.	Report	3/1/2011	PES	Remedial Action Health and Safety Plan
43.	Plan	3/7/2011	PES	Abatement, Demolition, and Remedial Action Health and Safety Plan
44.	Report	6/10/2011	PES	First Semi-Annual 2011 Groundwater Monitoring Report
45.	Report	12/9/2011	PES	Second Semi-Annual 2011 Groundwater Monitoring Report
46.	Report	1/31/2012	PES	Phase I Environmental Site Assessment
47.	Report	6/8/2012	PES	First Semi-Annual 2012 Groundwater Monitoring Report

33.	Bid	5/13/2010	Eden Housing	Request for Bid Addendum No. 1 for Hazardous Building Materials Abatement, Relocation of Historical Structures and Building Demolition
34.	Bid	5/26/2010	Eden Housing	Request for Bid Addendum No. 2 for Hazardous Building Materials Abatement, Relocation of Historical Structures and Building Demolition
35.	Bid	6/10/2010	Eden Housing	Request for Bid for Soil Remediation
36.	Bid	6/11/2010	Eden Housing	Request for Bid Addendum No. 3 for Hazardous Building Materials Abatement, Relocation of Historical Structures and Building Demolition
37.	Report	6/21/2010	PES	First Semi-Annual 2010 Groundwater Monitoring Report
38.	Plan	12/1/2010	PES	Storm Water Pollution Prevention Plan
39.	Report	12/10/2010	PES	Second Semi-Annual 2010 Groundwater Monitoring Report
40.	Plan	3/1/2011	PES	Storm Water Pollution Prevention Plan
41.	Report	3/1/2011	PES	Remedial Design and Implementation Plan
42.	Report	3/1/2011	PES	Remedial Action Health and Safety Plan
43.	Plan	3/7/2011	PES	Abatement, Demolition, and Remedial Action Health and Safety Plan
44.	Report	6/10/2011	PES	First Semi-Annual 2011 Groundwater Monitoring Report
45.	Report	12/9/2011	PES	Second Semi-Annual 2011 Groundwater Monitoring Report
46.	Report	1/31/2012	PES	Phase I Environmental Site Assessment
47.	Report	6/8/2012	PES	First Semi-Annual 2012 Groundwater Monitoring Report

48.	Report	9/26/2012	PES	Asbestos, Lead Paint, and Hazardous Building Materials Abatement and Demolition Oversight Report
49.	Report	12/6/2012	PES	Second Semi-Annual 2012 Groundwater Monitoring Report
50.	Report	5/30/2013	PES	First Semi-Annual 2013 Groundwater Monitoring Report
51.	Report	12/19/2013	PES	Second Semi-Annual 2013 Groundwater Monitoring Report
52.	Report	2/13/2014	PES	Results of Carey Parcel Investigation and Supplemental Soil Sampling
53.	Report	5/28/2014	PES	First Semi-Annual 2014 Groundwater Monitoring Report
54.	Memo	4/17/2015	PES	Memo Completion of Site Remediation and Pending Case Closure
55.	Letter	4/24/2015	PES	Letter to DTSC re Response to March 17, 2015 Correspondence Re Post-Remediation Groundwater Monitoring Work Plan
56.	Plan	5/21/2015	PES	Post-Remediation Groundwater Monitoring Work Plan
57.	Plan	3/1/2011	PES	Remedial Design and Implementation Plan

**EXHIBIT 5.5.3
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FIRST SOURCE HIRING AGREEMENT

[See Attached]

FIRST SOURCE HIRING AGREEMENT
(Miraflores Housing Development Community (Market Rate Residential))

RECITALS

THIS FIRST SOURCE HIRING AGREEMENT is entered into on the date stated below by and between the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”), and MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (the “**Employer**”).

WHEREAS, the Employer has been awarded a contract, forgivable loan or subsidy by Agency, dated _____ (hereinafter the “**Contract**”) to perform certain work and provide certain services at that certain improved real property located in Richmond, California, as more particularly described in **Exhibit A** attached hereto and further described as follows: construct one hundred sixty (160) market rate “for sale” residential units and thirty (30) “for sale” residential units affordable to moderate income households, incorporating a mix of single family detached townhomes and condominium units, parking, landscaping, and other ancillary amenities and improvements (both on and off the Property), also including the development adjacent to the Property of a greenbelt (including storm drainage facilities) and historic resources to be retained under Agency ownership.

WHEREAS, the Employer, in addition to the Contract, agrees to enter into this First Source Hiring Agreement (hereinafter the “**FSHA**”) with Agency;

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

1. Compliance with Chapter 2.56. Employer will comply with the terms of Chapter 2.56 of the Richmond Municipal Code, Local Employment Program (hereinafter the “**Ordinance**”), a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference.

2. Liaison. Employer shall designate a liaison for issues related to the Ordinance and this FSHA. The liaison shall work with designated Agency staff to facilitate effective implementation of the Ordinance and this FSHA (hereinafter the “**Designated Agency Staff**”).

3. First Source Hiring Process for CONSTRUCTION and NON-CONSTRUCTION JOBS
-Employer shall take the following steps regarding hiring in furtherance of the Contract.

(a) Long-Range Planning. Employer shall, prior to hiring in furtherance of the Contract, and as soon as practicable, provide to the Designated Agency Staff the approximate number and type of hires that it will make for employment, and the basic qualifications necessary for each projected hire.

(b) Dual Notification Process (CONSTRUCTION ONLY). Where there is a signatory agreement with the local union and the associated craft, Employer shall work with the local union and the City of Richmond Employment and Training Department (hereinafter the “**ETD**”) to fill those positions. The Employer shall forward to the ETD a copy of all personnel requests made to the trade unions, specifying the residency of personnel requested (this process is hereinafter referred to as the “**Dual Notification Process**” and a description of it is attached hereto along with the Request for Craft form for use by the Employer). In the Dual Notification Process, the Employer shall utilize the “name call,” “rehires,” “transfers,” or “sponsorship” options in maximizing the participation of Richmond, California residents.

(c) Notification of Job Opportunities. Prior to hiring in furtherance of the Contract, Employer shall notify the Designated Agency Staff, by email or fax, of available job openings and provide a description of job responsibilities and qualifications, including expectations, salary, work schedule, duration of employment, required standard of appearance, and any special requirements, e.g., language skills, driver's license, etc. Job qualifications shall be limited to skills directly related to performance of job duties.

(d) Filling of Job Opportunities. Prior to announcing or advertising in any form and by any means (except for compliance with internal posting procedures) the availability of an employment position created by the vacancy of an existing position or a new employment position, the Employer shall utilize the Dual Notification Process to notify the pertinent union, if appropriate, and ETD in writing of such position, including a general description of the position and Employer's minimum requirements for qualified applicants, and shall request any pertinent union and ETD to refer qualified applicants for such position to Employer's trade union and/or personnel representative, as appropriate. The Employer shall refrain from any general announcement or advertisement of the availability of such position for a period of ten (10) business days after notification to the ETD. This ten-day period shall be known as the "**Advance Notice Period.**"

(e) Job Site Applications. In the event that any persons seek employment with the Employer at the job site, the Employer shall have the person complete a Job Site Application consisting of name, address, telephone number, social security number and trade. The Employer will then submit this information to the ETD.

(f) Transfer and Promotion. Nothing contained herein shall prevent the Employer from filling job vacancies or newly created positions without compliance with the foregoing procedures by transfer or promotion from its existing staff.

4. Monthly Reports. Employer shall, on a monthly basis, furnish certified payroll sheets to ETD. Failure to provide Agency with this information shall result in delay of progress payments for that portion which is deemed not in compliance with the provisions of this FSHA.

5. Quarterly Reports. Employer shall prepare quarterly reports detailing the number of hires for employment in furtherance of the Contract during the quarter and stating what percentage of such hires were residents of Richmond, California. The Designated Agency Staff shall assist Employer by preparing forms to be completed for this purpose. Reports shall be filed with the ETD within thirty (30) days after the completion of each quarter. Reports may include a description of any difficulties the Employer is having with obtaining qualified referrals through the Designated Agency Staff.

6. Non-compliance Procedure. In the event Agency believes the Employer may not be in compliance with the requirements of this FSHA, the following procedure will be followed:

(a) The Agency Executive Director (hereinafter the "**Executive Director**") or designee shall cause to be delivered to the Employer a written "Notice of Non-Compliance" (hereinafter the "**Notice**"). The Notice shall specify the matters which constitute the non-compliance; the specific action required to correct the non-compliance; and the time period during which such correction shall occur. In no event shall this time period be more than thirty (30) days after receipt of the Notice by the Employer. If the Notice is mailed, it will be deemed received five (5) days after the date of mailing.

(b) If the Employer disagrees with the Notice, they shall have the burden of proving compliance with the provisions of the Ordinance and shall submit any evidence and argument to the Executive Director or designee to establish compliance no more than thirty (30) days after receipt of the Notice by the Employer.

(c) In the event the Executive Director or designee subsequently agrees that compliance has occurred, the Executive Director or designee shall cause to be delivered promptly to the Employer a written “Notice of Correction of Non-Compliance,” specifying the original non-compliance which has been corrected.

(d) In the event the Executive Director or designee does not agree that compliance has occurred, the Executive Director or designee shall promptly notify the Employer by a written “Notice of Failure to Correct Non-Compliance” (hereinafter the “**Notice of Failure to Correct**”), describing the facts constituting the non-compliance.

(e) After the issuance of the Notice of Failure to Correct, the Employer shall have the right to request a hearing (hereinafter “**Request for Hearing**”) before City of Richmond’s City Manager or designee (hereinafter the “**City Manager**”), who shall make the final determination. The Request for Hearing must be made within ten (10) working days after receipt of the Notice of Failure to Correct. If the Notice of Failure to Correct is mailed, it will be deemed received five (5) days after the date of mailing. The hearing shall be held no sooner than twenty (20) and no later than thirty (30) days after receipt by Agency of the Request for Hearing, unless otherwise agreed to by the parties. At the hearing, the Employer will be allowed to present any evidence and argument it believes proves compliance. City Manager shall issue their final determination no later than ten (10) business days after the hearing. The Employer must exhaust this administrative remedy prior to commencing legal action.

(f) In the event no Request for Hearing is timely made, the determination of failure to correct non-compliance shall be deemed to be final.

(g) Should the Employer fail to comply with the Notice of Non-Compliance as specified above, and a final determination of non-compliance is made, Agency may exercise any of its powers as specified in §2.56.080 of the Ordinance.

7. City as Third-Party Beneficiary. The City of Richmond, a municipal corporation and charter city, shall be considered a third-party beneficiary under this FSHA for the purpose of enforcing Employer’s obligations hereunder and the provisions of this FSHA affecting or benefiting Agency.

[Signatures appear on the following page.]

Executed this _____ day of _____, 201__

EMPLOYER:

MIRAFLORES COMMUNITY DEVCO, LLC, a California
limited liability company

By: _____
Scott Hanks

Its: _____

AGENCY:

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY
REDEVELOPMENT AGENCY, an entity created and organized
under AB 1X 26 enacted by the California Legislature on June
28, 2011 and AB 1484 enacted by the California Legislature on
June 27, 2012

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

**EXHIBIT A
TO
FIRST SOURCE HIRING AGREEMENT**

LEGAL DESCRIPTION OF PROPERTY

[See Attached]

EXHIBIT A

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, AS SAID LOT 14 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF ALTA PUNTA TRACT", RECORDED APRIL 22, 1905, IN BOOK D OF MAPS, AT PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE NORTH 00°41'22" EAST 210.00 FEET; THENCE NORTH 89°18'38" WEST 100.00 FEET; THENCE NORTH 00°41'22" EAST 110.00 FEET; THENCE, NORTH 89°18'38" WEST 100.00 FEET TO THE EAST LINE OF SOUTH 47TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 279.30 FEET TO THE EASTERLY PROJECTION OF THE NORTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID EASTERLY PROJECTION AND SAID NORTH LINE, NORTH 89°18'38" WEST 297.45 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00°41'22" EAST 349.20 FEET; THENCE NORTH 89° 18' 38" WEST 212.55 FEET TO THE EAST LINE OF SOUTH 45TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 189.41 FEET TO THE SOUTH LINE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (B.A.R.T.) RIGHT-OF-WAY; THENCE ALONG SAID SOUTH LINE, SOUTH 89° 15' 04" EAST 428.25 FEET; THENCE LEAVING SAID SOUTH LINE, SOUTH 00°41'22" WEST 111.48 FEET; THENCE SOUTH 89°18'38" EAST 41.75 FEET; THENCE ALONG THE ARC OF A TANGENT 78.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 122.52 FEET; THENCE SOUTH 00°41'22" WEST 5.00 FEET; THENCE, SOUTH 89°18'38" EAST 18.17 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33°12'56", AN ARC DISTANCE OF 14.49 FEET; THENCE SOUTH 56°05'42" EAST 11.32 FEET; THENCE ALONG THE ARC OF A TANGENT 34.03 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 34°48'11", AN ARC DISTANCE OF 20.67 FEET; THENCE SOUTH 00°41'22" WEST 266.10 FEET; THENCE ALONG THE ARC OF A TANGENT 24.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°01'47", AN ARC DISTANCE OF 27.24 FEET; THENCE SOUTH 27°22'05" EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PTN); 513-330-001(PTN), 002(PNT), 005(PTN), 006(PTN), 007(PTN), 013 & 014

**EXHIBIT B
TO
FIRST SOURCE HIRING AGREEMENT**

ORDINANCE

[See Attached]

Chapter 2.56 - LOCAL EMPLOYMENT PROGRAM*

Sections:

2.56.010 - Findings.

The City Council of the City of Richmond hereby finds that statistics indicate that unemployment levels for the citizens of the City of Richmond are higher than for the remainder of Contra Costa County and for neighboring Alameda County. Statistics also indicate that the higher unemployment level in the City of Richmond correlates to the higher number of families living in poverty and to a higher crime rate.

(Ord. No. 15-10 N.S., § 1, 4-20-2010)

2.56.020 - Declaration of policy and purpose.

- (a) It is the policy of the City of Richmond to ensure full and equitable opportunities for Richmond residents to participate in the employment opportunities that arise from public works contracts, service contracts, and subsidized projects.
- (b) It is also the policy of the City of Richmond to increase the number of employed persons living in the City of Richmond in an attempt to counteract the grave economic and social ills associated with the higher unemployment levels that exist within the City.
- (c) The City Council has determined there is a need to provide Richmond residents with more opportunities to participate in workforce development and pre-apprenticeship programs that include life skills training, job readiness training, and case management services. Such pre-apprenticeship programs will increase the capacity of Richmond residents to succeed later in formal apprenticeship programs and hence reduce the unemployment rate and accompanying poverty and crime conditions. The City of Richmond currently sponsors a number of excellent pre-apprenticeship programs that should be expanded and enhanced in order to alleviate the conditions associated with Richmond's high unemployment rate.
- (d) By increasing the capacity of the Richmond residents through workforce development and pre-apprenticeship programs, Richmond residents will be better suited to compete in the marketplace, and thus Richmond employers will be better able to meet increased local workforce participation goals.
- (e) In furtherance of these policies, the City of Richmond has established a local employment program to encourage the hiring and retention of Richmond residents for the work to be performed under public works contracts, service contracts, and subsidized projects.

(Ord. No. 15-10 N.S., § 1, 4-20-2010)

2.56.030 - Scope and goals.

- (a) For any public works or service contract with the City that has a value of \$100,000 or more, or a subsidized project with a subsidy from the City of \$100,000 or more, there is hereby established the following goals for employment of Richmond residents:
- (1) Public Works (Construction) Employment: That a minimum of twenty-five percent (25%) of the total work hours for the contract or project shall be performed by Richmond residents, and that a minimum of twenty-five percent (25%) of all new hires for the contract or project shall be Richmond residents for the duration of the contract or project;
 - (2) Retail Employment: That a minimum of thirty-five percent (35%) of the total workforce shall be residents, and that a minimum of thirty-five percent (35%) of all new hires shall be residents;
 - (3) Office, Administrative, and Other Employment: That a minimum of thirty-five percent (35%) of the total workforce shall be residents, and that a minimum of thirty-five percent (35%) of all new hires shall be residents.

An employer must achieve these goals or document a good faith effort to achieve these goals.

- (b) The goals established by subsection (a) of this section represent the minimum employment standards for the affected categories, and subject businesses are encouraged to exceed these goals whenever possible.
- (c) With respect to retail employment and office, administrative, and other employment, any employer that occupies any portion of the project site and employs more than ten full time equivalent employees at the site shall have the employment goals as provided for in subsection (a) or (c) of this section. The term of this obligation shall be calculated at a rate of one-year for every \$100,000 of subsidy provided by the City to the project. In no event, however, shall the term of this obligation be less than three (3) years or more than ten (10) years after the completion of any subsidized project.
- (d) Each construction contractor or subcontractor performing work on a public works contract or subsidized project shall employ in its regular workforce Richmond residents who are enrolled and participating in an apprenticeship program. Such an apprenticeship program must have been approved by the State Department of Industrial Standards. The expected number of apprentices will vary based upon the availability of Richmond residents indentured in the various apprenticeship programs. The apprenticeship program must have graduated apprentices annually for at least the past five (5) years and must have an established history of partnering with the City and community based organizations in establishing and operating pre-apprenticeship programs.
- (1) This requirement applies to any craft for which the State of California Department of Apprenticeship Standards has approved an apprenticeship program. A properly indentured apprentice will be employed under the regulations of the craft or trade at which he or she is indentured and shall be employed only at the work of the craft or trade in which he or she is registered.

(2)

The graduation requirement for each of the preceding five (5) years shall not apply to any trade or craft not recognized by the Department of Labor or Division of Apprenticeship Standards as an apprenticeable occupation for more than nine (9) years immediately prior to the effective date of the ordinance codified in this chapter.

- (e) Any business that is a small business is exempt from the requirements of this chapter.
(Ord. No. 15-10 N.S., § 1, 4-20-2010)

2.56.040 - Definitions.

As used in this chapter:

"City" means the City of Richmond, its agencies, departments and shall include the Richmond Community Redevelopment Agency.

"City Council" means the City Council of the City, and shall include the Agency Board of the Richmond Community Redevelopment Agency.

"City Manager" means the City Manager for the City of Richmond and, for the purposes of this chapter, shall include the Chief Executive Officer of the Richmond Community Redevelopment Agency.

"Construction contractor" means an individual, partnership, corporation, joint venture or other legal entity entering into a public works contract with the City, or performing construction work on a subsidized project.

"Employer" means a construction contractor, service contractor, subsidy recipient or any of their subcontractors, or any business which occupies and conducts its business on any portion of the site of any subsidized project within ten years after completion of the project.

"First source agreement" means a written contract between an employer and the City establishing the hiring process to be followed and containing, at least, the employer's:

- (1) Commitment to abide by the responsibilities of an employer under this chapter; and
- (2) Agreement that the specified hiring process shall be followed in order to maximize the number of Richmond residents employed.

Unless the City Council directs otherwise, first source agreements shall contain the terms set forth in the sample documents considered by the City Council in approval of this chapter.

"New hire" means any employee of a contractor or subcontractor who is not listed on the contractor or subcontractor's last quarterly tax statement for the period prior to the commencement of work.

"Public works contract" means any contract with the City for construction, alteration, demolition or repair work.

"Referral system" means the system established by the City to provide referrals of residents to employers for employment covered by this chapter.

"Resident" means any person whose primary residence is in the City of Richmond.

"Service contract" means a contract with the City for performance of services, not including public works contracts.

"Service contractor" means any recipient of a service contract, and any subcontractor performing work in furtherance of that service contract.

"Small business" means any business that employs the equivalent of ten or fewer full-time employees in its total workforce.

"Subcontractor" means any and all parties with whom a subsidy recipient, construction contractor or other subcontractor enters into a contract to perform a portion of any construction, alteration, demolition or repair work.

"Subsidized project" means a development project for which a subsidy recipient received one or more subsidies with a total cost to the City of \$100,000 or more.

"Subsidy" means direct or indirect assistance by the City that materially benefits that person or entity, including, but not limited to: grants or loans of funds administered by the City; tax abatements or deferrals; infrastructure improvements made for the purpose of facilitating or supporting a development project; land sale at below market value; a ground lease at below market value.

"Subsidy recipient" means:

- (1) A person or entity that in any twelve-month period receives one or more subsidies with a total cost to the City of \$100,000 or more; and/or
- (2) A person or entity that receives written notice that in exchange for the City's grant or subsidy to that person or entity, such person or entity must abide by the provisions of this chapter.

(Ord. No. 15-10 N.S., § 1, 4-20-2010)

2.56.050 - Powers and duties of the City.

In addition to the duties and powers given to the City set forth elsewhere in the Richmond Municipal Code, the City shall have the following duties and powers regarding this chapter:

- (1) The City shall conduct pre-bid meetings for contracts or projects subject to this chapter to inform potential bidders of the requirements of the ordinance codified in this chapter;
- (2) The City shall have the exclusive right to determine whether or not a business is a small business;
- (3)

The City shall require all employers with contracts or projects subject to this chapter to abide by its provisions;

- (4) The City shall require that employers require compliance with and enforce the provisions of this chapter with any and all subcontractors, successors and assigns;
- (5) The City shall actively monitor compliance with this chapter and will submit a quarterly report to the City Council on the status of the implementation of this chapter on all public works contracts, service contracts and subsidized projects. Compliance will be measured from the initial day of performance and shall continue for the duration of the contract or project in question;
- (6) The City shall convene a semi-annual meeting of stakeholders including, local labor unions, local contractors who participate in State-certified jointly administered training programs, community-based training programs, local college training programs, and social justice advocacy groups to provide feedback and suggestions about Richmond's Local Employment Program and to review employment goals established by this chapter. Such feedback and suggestions shall be included in the report to City Council that is required by Section 2.56.050(5);
- (7) The City shall require that this chapter is incorporated into all relevant development agreements, development and disposition agreements, land disposition agreements, requests for proposal, requests for qualifications, and other such documents;
- (8) The City shall ensure that the employment goals set under this chapter are maintained for the duration of the contract or project in question.

(Ord. No. 15-10 N.S., § 1, 4-20-2010)

2.56.060 - Responsibilities of employers.

- (a) Each employer shall, as a condition of entry into any contract or receipt of a subsidy subject to this chapter, or of locating in a subsidized project, comply with the responsibilities and goals set forth in this chapter, including, but not limited to:
 - (1) First Source Agreements. Each employer shall enter into a first source agreement. The first source agreement shall establish the hiring process to be followed by the employer for construction and non-construction hiring to achieve the goals of this chapter. It is an operational document, and a model first source agreement is attached hereto to guide City staff on the necessary provisions for such agreements;
 - (2) Pre-Bid Meetings. Each employer shall attend any pre-bid meeting conducted by the City for any contract or project subject to this chapter;
 - (3) Cooperation with Monitoring Efforts. Each employer shall make available to the City records and information that are relevant to monitoring and enforcement of this chapter, including contracts with other entities. The City shall not use such records or information for any purpose other than monitoring or enforcement of this chapter. Each employer shall cooperate fully and promptly with any inquiry or investigation the City deems necessary in order to monitor compliance with this

chapter, including allowing access to job sites and employees. In no event shall an employer take more than 10 days to respond to a City inquiry or investigation. Employers may remove names and social security numbers from requested records to protect the privacy of individual employees, however, the City may require that an employer provide addresses of individual employees if their actual place of residence is at issue.

- (b) **Safe Harbor.** As an incentive to exceed the goals of this chapter, an employer who meets the following requirements shall be deemed to be in compliance with the goals of the ordinance for the quarter and exempt from reporting requirements for that quarter:
- (1) **Public Works (Construction) Employment:** That a minimum of forty percent (40%) of the total work hours for the contract or project during the quarter was performed by residents;
 - (2) **Retail Employment:** That a minimum of fifty percent (50%) of the total workforce during the quarter was residents;
 - (3) **Office, Administrative, and Other Employment:** That a minimum of fifty percent (50%) of the total workforce during the quarter was residents.

Any employer who achieves the safe harbor requirements for four consecutive quarters shall thereafter be required only to make an annual report, unless the employer fails to file the annual report or the report fails to demonstrate compliance.

- (c) **Non-City Project Hiring.** An employer who can adequately document the new hire of a Richmond resident on any non-City project within one of the nine Bay Area counties (Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, Marin, Solano, Napa, and Sonoma), during the time a subject contract or project is in effect, shall be entitled to credit the hours of that Richmond hire towards meeting the new hire goals of this chapter.
- (d) **Binding on Successors and Assigns.** Each employer under this chapter shall not assign, sell or in any way transfer any portion of their interest in a contract, project, subsidy or other interest subject to this chapter without first notifying the City. Each employer shall require that each of said employer's successors and/or assigns agree to comply with all terms of this chapter applicable to employers.
- (e) **Nondiscrimination in Conditions of Employment.** Employers shall not discriminate against residents in any terms and conditions of employment, including retention, promotions, job duties, shift assignments and training opportunities.

(Ord. No. 15-10 N.S., § 1, 4-20-2010)

2.56.070 - Responsibilities regarding new hires.

Every employer shall have the following responsibilities:

- (a) Each employer shall comply with the goals for all new hires, as stated in Section 2.56.030(a), and shall use union hiring halls for union contracts and the referral system for non-union contracts;
- (b)

Each employer shall, prior to hiring in furtherance of the contract or project, provide to the City its hiring projections, including number, type, and qualifications for the projected jobs;

- (c) Each employer shall utilize the hiring process specified in their first source agreement with the City.

(Ord. No. 15-10 N.S., § 1, 4-20-2010)

2.56.080 - Noncompliance.

- (a) The City shall determine whether an employer has complied with the requirements of this chapter. If the City determines that the employer failed to comply with the provisions of this chapter, the employer has the burden of proving compliance with this chapter and its obligations under this chapter or a good faith effort to comply. For the purposes of this chapter, a good faith effort shall mean compliance with the requirements of the hiring process as established in their first source agreement. Each employer agrees to pay the civil penalties set forth in subsection (d) of this section if they are found in noncompliance.
- (b) The City Manager has the power, in addition to any other remedy the City may have under this chapter or by operation of law, to suspend or terminate the pertinent contract in whole or in part, with continuance thereof conditioned upon a satisfactory showing to the City Manager of the employer's ability to comply.
- (c) In the event the City believes the employer may not be in compliance with the requirements of this chapter, the following procedure will be followed:
- (1) The City Manager or designee shall cause to be delivered to the employer a written "Notice of Noncompliance." This notice shall specify the matters which constitute the noncompliance; the specific action required to correct the noncompliance; and the time period during which such correction shall occur. In no event shall this time period be more than thirty (30) days after receipt of the notice by the employer. If the notice is mailed, it will be deemed received five days after the date of mailing;
 - (2) If the employer disagrees with the notice, they shall have the burden of proving compliance with the provisions of the ordinance and shall submit any evidence and argument to the City Manager or designee to establish compliance no more than thirty (30) days after receipt of the notice by the employer;
 - (3) In the event the City Manager or designee subsequently agrees that compliance has occurred, the City Manager or designee shall cause to be delivered promptly to the employer a written "Notice of Correction of Noncompliance," specifying the original noncompliance which has been corrected;
 - (4) In the event the City Manager or designee does not agree that compliance has occurred, the City Manager or designee shall promptly notify the employer by a written "Notice of Failure to Correct Noncompliance," describing the facts constituting the noncompliance;
 - (5)

After the issuance of a written "Notice of Failure to Correct Noncompliance," the employer shall have the right to request a hearing before the City Manager, designee, or a mutually agreed upon arbitrator who shall make the final determination. The request for a hearing must be made within ten (10) working days after receipt of the "Notice of Failure to Correct Noncompliance." If the notice is mailed, it will be deemed received five days after the date of mailing. The hearing shall be held no sooner than 20 and no later than 30 days after receipt by the City of the request for hearing, unless otherwise agreed to by the parties. At the hearing, the employer will be allowed to present any evidence and argument it believes proves compliance. The City Manager, designee, or neutral arbitrator shall issue their final determination no later than 10 business days after the hearing. The employer must exhaust this administrative remedy prior to commencing further legal action;

- (6) In the event no request for hearing is timely made, the determination of failure to correct noncompliance shall be deemed to be final;
 - (7) Should the employer fail to comply with the "Notice of Noncompliance" as specified above, and a final determination of noncompliance is made, the City may exercise any of its powers as specified in this section.
- (d) Civil Penalties. The City may assess civil penalties for violations of this chapter. Civil penalties for violations of this chapter are as follows: An amount not to exceed \$1,000.00 or 1% of the total contract amount, whichever is greater, for each working day of noncompliance, regardless of the number of separate acts of noncompliance by the employer existing on a particular day.
- (e) The City shall keep a record of all violations of the hiring goals established by this chapter. A history of violation of the ordinance's goals shall be a factor which is considered by the City when deciding upon any future awards of contracts to the affected employer and may form the basis for denying any future contracts to the affected employer.

(Ord. No. 15-10 N.S., § 1, 4-20-2010)

2.56.090 - Miscellaneous.

- (a) Severability. The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of the ordinance codified in this chapter, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.
- (b) Effective Date. The ordinance codified in this chapter shall take effect 30 days after the date of its enactment and shall govern all contracts and other relevant agreements that have not been executed by that date.
- (c) Sources of Authority. This chapter constitutes an exercise of the police powers of the City, the contracting and spending powers of the City and Agency, and the powers of the Agency deriving from the California Health & Safety Code, § 33000 et seq.

- (d) Compliance with State and Federal Law. This chapter shall be enforced only to the extent that it is consistent with the laws of the State of California and the United States of America. Nothing in this chapter is intended to affect the duties of any business, including any small business, under State or federal law. In addition, no provision of this chapter, including but not limited to Section 2.56.030(e), is intended to exempt any business from complying with applicable State or federal law, or from complying with State requirements for apprenticeship programs as detailed in Section 2.56.030(d). No employer shall be required by this agreement to violate its obligations under an agreement governed by the National Labor Relations Act and the Labor-Management Relations Act. If any provision of this chapter is held by a court of law to be in conflict with State or federal law, the applicable law shall prevail over the terms of this chapter, and the conflicting provisions of this chapter shall not be enforceable.
- (e) Compliance with Court Order. An employer shall be excused from compliance with the pertinent terms of this chapter if the employer is bound by a court or administrative order or decree which conflict with those terms.
- (f) Material Terms. The provisions of this chapter are material terms of all contracts or agreements in which the ordinance codified in this chapter is incorporated.

(Source: Ordinance No. 52-06 N.S.)

(Ord. No. 15-10 N.S., § 1, 4-20-2010)

**EXHIBIT 5.5.6.1
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

SPECIAL TAX ALLOCATION PROCEDURES

[See Attached]

SPECIAL TAX ALLOCATION PROCEDURES

In order to assist the parties in determining the proper sales and use tax allocation to the City of Richmond, Developer and its construction contractor (“**Contractor**”) shall implement the following procedures in accordance with 18 CCR 1521, 1699.6, 1802 and 1806, as well as the January 1995 Special Notice of the California Board of Equalization.

- 1) On or before the date upon which Developer issues a notice to proceed to Contractor and/or commences construction of the Miraflores Housing Development Community (Market Rate Residential) (the “**Project**”) (the “**NTP Date**”), Contractor and each subcontractor (“**Subcontractor**”) furnishing and installing materials and fixtures for the Project pursuant to a contract or a subcontract with a value of Five Million Dollars (\$5,000,000) or more and which requires such Contractor or Subcontractor to perform work within the City of Richmond shall apply for jobsite sub-permits for the Project according to the January 1995 Special Notice of California Board of Equalization (“**Special Notice**”) and the sales and use tax laws of California.
- 2) If jobsite sub-permits are issued to Contractor or any of its Subcontractors, each registered Contractor or Subcontractor shall allocate local sales and use tax applicable to furnishing and installing materials and fixtures for the Project to the City of Richmond on their sales and use tax returns for tax periods during the extant sub-permits, according to the Special Notice and the sales and use tax laws of California.
- 3) On or before the NTP Date, Contractor, and each qualifying Subcontractor shall apply for use tax direct payment permits with respect to use tax due for transactions involving the Project pursuant to 18 CCR 1699.6. For this purpose, a qualifying Subcontractor is one which purchased for its own use, or leased tangible personal property for the Project and which is subject to use tax in California, at a cost of Five Hundred Thousand Dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding the NTP date. If a Contractor or Subcontractor does not qualify for a use tax direct payment permit on the NTP Date, such Contractor or Subcontractor shall apply for such permits in subsequent years in which they qualify.
- 4) To the extent that use tax direct payment permits are issued to Contractor and its Subcontractors, Contractor and its Subcontractors will self-assess and pay directly to the California Board of Equalization, with each return, the use tax due on all leases and purchases for which a use tax direct payment exemption certificate was issued and will report the local use tax component due to the first functional use of tangible personal property within the City of Richmond pursuant to 18 CCR 1699.6.
- 5) When making purchases that will be fulfilled by shipment from out-of-state and be subject to use tax, Contractor, and each Subcontractor, whenever practicable, shall submit a purchase order for materials, fixtures or equipment to be used at or incorporated into the Project directly to a retailer's out-of-state shipping office or headquarters and not through any place of business of the retailer which is located in California. Such purchase order shall be accompanied by a Use Tax Exemption Certificate if the Subcontractor has obtained a use tax direct payment permit. Persons not having a sub-permit or a use tax direct payment permit as described above, but making a purchase of Five Hundred Thousand Dollars (\$500,000) or more as described in paragraph 3 above from a retailer who is not registered to collect and remit use tax to the State of California shall

report the local use tax component due to the first functional use of the property within the City of Richmond to the City of Richmond. (See 18 CCR Section 1802 (d).)

6) When making purchases that will be subject to Bradley-Burns sales tax, Contractor, and each of its Subcontractors, may purchase from any retailer of its choosing. If the retailer maintains a place of business within the City of Richmond then the Contractor or Subcontractor, whenever practicable, shall submit a purchase order for materials, fixtures or equipment to be used at or incorporated into the Project to a place of business of the retailer situated within the City of Richmond.

7) Contractor shall maintain the necessary facilities and personnel at the Project jobsite until the Project is completed to facilitate recordkeeping, and documentation of the purchase of tangible personal property in accordance with this **Exhibit 5.5.6.1** for the work performed within the City of Richmond for the Project. Contractor shall also maintain such purchasing records for the Project at such locations and for such time durations as is required by law.

8) Contractor shall contractually require its Subcontractors to comply with these special tax procedures in **paragraphs 1-6** of this **Exhibit 5.5.6.1**, including those Subcontractors selected after the NTP Date, to perform work within the City of Richmond for the Project.

9) In the event that these special tax procedures conflict with the sales and use tax laws of California, the sales and tax laws of California will govern. For transactions and situations not covered by these special tax procedures, the sales and use tax laws of California will govern.

**EXHIBIT 5.9.1-A
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF CERTIFICATE OF CONSTRUCTION PHASE COMPLETION

[See Attached]

Recording Requested By

When Recorded Mail To:

Miraflores Community Devco, LLC
5 Thomas Mellon Circle, Suite 117
San Francisco, CA 94134
Attn: Scott Hanks

**CERTIFICATE OF CONSTRUCTION PHASE COMPLETION
(Miraflores Housing Development Community – Market Rate Residential)**

Pursuant to **Section 5.9** of that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), dated as of July 19, 2016 (the “**DDA**”), by and between the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”), and Miraflores Community Devco, LLC, a California limited liability company (the “**Developer**”), a Memorandum of which was recorded on _____, in the Official Records of Contra Costa County, as Instrument _____, Agency certifies that Developer has met its obligations under Article 5 of the DDA relating solely to the obligations of Developer to Complete Construction of the particular Construction Phase described in **Exhibit A** attached hereto. Except for the foregoing, this Certificate of Completion does not certify or constitute evidence of, and is not deemed to mean compliance with, any other matter, including, without limitation: (1) compliance with or satisfaction of any obligation of Developer to any holder of a deed of trust securing money loaned to finance the Project or any part thereof; (2) compliance with the living wage requirements of the City of Richmond, the prevailing wage requirements of California Labor Code Sections 1720 *et seq.*, or the federal Davis-Bacon Act wage requirements, if applicable; or (3) a notice of completion under the California Civil Code or a certificate of occupancy.

The date of the issuance of the certificate of completion or Certificate of Occupancy (as applicable) from the City for the Improvements was _____, 20__.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, Agency caused this Certificate of Completion to be duly executed as of _____, 20__.

SUCCESSOR AGENCY TO THE RICHMOND
COMMUNITY REDEVELOPMENT AGENCY,
an entity created and organized under AB 1X 26
enacted by the California Legislature on June 28,
2011 and AB 1484 enacted by the California
Legislature on June 27, 2012

By: _____
Executive Director

Date: _____

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO
CERTIFICATE OF CONSTRUCTION PHASE COMPLETION
(Miraflores Housing Development Community – Market Rate Residential)**

DESCRIPTION OF PARTICULAR CONSTRUCTION PHASE

[To Follow]

**EXHIBIT 5.9.1-B
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF CERTIFICATE OF PROJECT COMPLETION

[See Attached]

Recording Requested By

When Recorded Mail To:

Miraflores Community Devco, LLC
5 Thomas Mellon Circle, Suite 117
San Francisco, CA 94134
Attn: Scott Hanks

CERTIFICATE OF PROJECT COMPLETION
(Miraflores Housing Development Community – Market Rate Residential)

Pursuant to **Section 5.9** of that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential), dated as of July 19, 2016 (the “**DDA**”), by and between the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Agency**”), and Miraflores Community Devco, LLC, a California limited liability company (the “**Developer**”), a Memorandum of which was recorded on _____, in the Official Records of Contra Costa County, as Instrument _____, Agency certifies that Developer has met its obligations under Article 5 of the DDA relating solely to the obligations of Developer to construct the Project (as defined in the DDA). Except for the foregoing, this Certificate of Completion does not certify or constitute evidence of, and is not deemed to mean compliance with, any other matter, including, without limitation: (1) compliance with or satisfaction of any obligation of Developer to any holder of a deed of trust securing money loaned to finance the Project or any part thereof; (2) compliance with the living wage requirements of the City of Richmond, the prevailing wage requirements of California Labor Code Sections 1720 *et seq.*, or the federal Davis-Bacon Act wage requirements, if applicable; or (3) a notice of completion under the California Civil Code or a certificate of occupancy.

The date of the issuance of the Certificate of Occupancy for the Improvements was _____, 20__.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, Agency caused this Certificate of Completion to be duly executed as of _____, 20__.

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012

By: _____
Executive Director

Date: _____

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT 6.8.1.2
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

SCHEDULE OF INSURANCE REQUIREMENTS

[See Attached]

**City of Richmond - Insurance Requirements – Type 1:
Consultants and Contractors**

In all instances where a CONTRACTOR or its representatives will be conducting business and/or providing services, the City requires the following MINIMUM insurance requirements and limits.

CONTRACTOR shall procure and maintain for the duration of the contract, agreement, or other order for work, services or supplies, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors. **Maintenance of proper insurance coverage is a material element of the contract. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.**

CONTRACTOR agrees that in the event of loss due to any of the perils for which it has agreed to provide Commercial General Liability insurance, CONTRACTOR shall look solely to its insurance for recovery. CONTRACTOR hereby grants to CITY, on behalf of any insurer providing Commercial General Liability insurance to either CONTRACTOR or CITY with respect to the services of CONSULTANT herein, a waiver of any right to subrogation which any such insurer of said CONTRACTOR may acquire against the CITY by virtue of the payment of any loss under such insurance.

Original, signed certificates and original, separate policy endorsements, naming the City as an additional insured for general liability, as well as a waiver of subrogation for Workers' Compensation insurance, shall be received and approved by the City **before any work may begin**. However, failure to do so shall not operate as a waiver of these insurance requirements.

City reserves the right to modify or require additional coverages for specific risk exposures depending on scope of CONTRACTORS work.

Minimum coverage is detailed below. The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated herein shall not serve to reduce the policy limits of coverage of CONTRACTOR.

Minimum Scope of Insurance – the following forms shall be provided and coverage shall be at least as broad as the following:

1. Insurance Services Office Commercial General Liability coverage (ISO Occurrence Form CG 0001) including coverage for bodily and personal injury, property damage, and products and completed operations.
2. Insurance Services Office Automobile Liability coverage (ISO Form CA 0001, Code 1, Any Auto)
3. Original and Separate Additional Insured Endorsements for General Liability (ISO Form CG 20 10 11/85 or its equivalent) with primary and non-contributory language.
4. Workers' Compensation Insurance as required by the State of California including Employer's Liability coverage.
5. Original and Separate Waiver of Subrogation for Workers' Compensation and Builder's Risk/ Course of Construction Insurance.
6. Builder's Risk/Course of Construction Insurance covering all risks of loss less policy exclusions when the City of Richmond has a financial interest in the property. – *(Only required for Construction Contracts involving property)*
7. Contractor's Pollution Liability *(if applicable for Construction Contractors)*

Required Coverage	Minimum Limits
Workers' Compensation and Employers' Liability	Statutory limits as required by the State of California including \$1 million Employers' Liability per accident, per employee for bodily injury or disease. If CONTRACTOR is self-insured, provide a certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations and Self-Insurance. If CONTRACTOR is a sole proprietor (has no employees) then CONTRACTOR must sign "Contractor Release of Liability" found at: http://www.ci.richmond.ca.us/index.aspx?nid=61 .
General Liability	PROJECT COST
	REQUIRED LIMIT
	\$0 - \$5 million
	\$2 million p/o

Type 1 – Page 1 of 4

Revised: September 2011

**City of Richmond - Insurance Requirements – Type 1:
Consultants and Contractors**

<i>(primary and excess limits combined)</i>	\$5 million - \$10 million	\$5 million p/o
	Over \$10 million	\$10 million p/o
	Fireworks	\$5 million p/o
	<p>Includes coverage for bodily injury, personal injury, property damage and products and completed operations. The policy shall not exclude coverage for XCU perils (explosion, collapse, or damage to underground property).</p> <p>If the policy includes a general aggregate, either the general aggregate shall apply separately to this project, service or location or the minimum required aggregate limit shall be twice the per occurrence limit (\$4 million aggregate limit).</p> <p>Policy shall be endorsed to name the City of Richmond as an additional insured per the conditions detailed below.</p>	
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage.	
<p>Builders' Risk/Course of Construction – Covers property under construction, repair or renovation as well as equipment and materials to be installed.</p> <p>(Only required for Construction Projects involving property and equipment installation.)</p>	<p>Coverage shall include all risks of direct physical loss, excluding earthquake, for an amount equal to the full completed value of the covered structure or replacement value of alterations or additions, including soft costs and business interruption.</p> <p>If the project does not involve new or major reconstruction, an Installation Floater may be acceptable. For such projects, a property installation floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken or destroyed during the performance of the Work, including during transit, installation and testing at the City of Richmond's site.</p> <p>The City of Richmond shall be named as loss payee as its interest may appear. The insurer shall waive all rights of subrogation against City.</p>	
<p>Contractor's Pollution Liability (if applicable)</p> <p>Protects against: <i>unexpected/unintended release of pollution resulting from contractor's covered operations such as:</i></p> <p>HVAC, paving, carpentry, pipeline & tank installation, drillers, remediation contractors, maintenance, mechanical, demolition, excavation, grading, street/road construction, residential & commercial builders.</p>	Same limits as General Liability.	
Required Policy Conditions		
A. M. Best Rating	A:VII or Better. If the A.M. Best Rating falls below the required rating, CONTRACTOR must replace coverage immediately and provide notice to City.	
Additional Insured Endorsement	<p>Applicable to General Liability Coverage.</p> <p>The City of Richmond, its officers, officials, employees, agents and volunteers are to be named as additional insureds for all liability arising out of the operations by or on behalf of the named insured, including but not limited to bodily injury, deaths and property damage or destruction arising in any respect directly or indirectly in the performance of this contract.</p> <p>ISO form CG 20 10 (11/85) or its equivalent is required. The endorsement <u>must not</u> exclude products and completed operations coverage. If it does, then CG 20 37 (10/01) is also required.</p> <p>SAMPLE Endorsements can be found at http://www.ci.richmond.ca.us/index.aspx?nid=61</p>	
Additional Insured Endorsement (continued)		

**City of Richmond - Insurance Requirements – Type 1:
Consultants and Contractors**

Primary and Noncontributory	CONTRACTOR's insurance coverage must be primary coverage as it pertains to the City, its officers, officials, employees, agents and volunteers. Any insurance or self insurance maintained by the City is wholly separate from the insurance of CONTRACTOR and in no way relieves CONTRACTOR from its responsibility to provide insurance.
Waiver of Subrogation Endorsement Form	CONTRACTOR's insurer will provide a Waiver of Subrogation in favor of the City for Workers Compensation and Builder's Risk/ Course of Construction coverage during the life of this contract. SAMPLE Endorsements can be found at http://www.ci.richmond.ca.us/index.aspx?nid=61
Deductibles and Self-Insured Retentions	Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City or the CONTRACTOR shall procure a financial guarantee in an amount equal to the deductible or self-insured retention guaranteeing payment of losses and related investigations, claims administration and defense expenses. CONTRACTOR is responsible for satisfaction of the deductible and/or self-insured retention for each loss.
Loss Payable Endorsement (only required when Builder's Risk and/or Course of Construction Insurance is required.)	Applicable to Builder's Risk/Course of Construction naming the City of Richmond as Loss Payee.
SURETY BONDS (If a Public Works/Engineering Project)	CONTRACTOR shall provide: <ol style="list-style-type: none"> 1. A Bid bond 2. A Performance Bond 3. A Payment Bond

Umbrella/Excess Liability Policies

If an Umbrella or Excess Liability Policy is used to meet the liability limits, coverage shall be as broad as specified for underlying coverages and cover those insured in the underlying policies.

Claims-Made Policies

If any insurance policy is written on a claims-made form: 1) the retroactive date must be shown, and must be before the date of the contract or the beginning of contract work. 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the CONTRACTOR must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.

Subcontractors

CONTRACTOR shall include all subcontractors as insured under its policies or shall furnish to the City for review and approval, separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

CONTRACTOR agrees to defend and indemnify the City of Richmond for any damage resulting to it from failure of either CONTRACTOR or any subcontractor to take out or maintain the required insurance policies. The fact that insurance is obtained by CONTRACTOR, and/or CONTRACTOR's subcontractors, will not be deemed to release or diminish the liability of CONTRACTOR, including, without limitation, liability under the indemnity provisions of this contract. Damages recoverable by CITY from CONTRACTOR or any third party will not be limited by the amount of the required insurance coverage.

Verification of Coverage

All original certificates and endorsements shall be received and approved by the City ***before work may begin***. The City of Richmond reserves the right to require complete, certified copies of all required insurance policies including endorsements affecting the coverage at any time.

**City of Richmond - Insurance Requirements – Type 1:
Consultants and Contractors**

Original insurance certificates and required policy endorsements shall be mailed, or delivered to the Designated Project Manager for the City of Richmond.

Insurance certificates and endorsements may be faxed to the Designated Project Manager. However, CONTRACTOR must mail the original certificates and endorsements to Designated Project Manager once faxed.

Continuous Coverage

CONTRACTOR shall maintain the required insurance for the life of the contract. Should the CONTRACTOR cease to have insurance as required during this time, all work by the CONTRACTOR pursuant to this agreement shall cease until insurance acceptable to the City is provided. In the event that CONTRACTOR fails to comply with the City's insurance requirements, the City may take such action as it deems necessary to protect the City's interests. Such action may include but is not limited to termination of the contract, withholding of payments, or other actions as the City deems appropriate.

If services or the scope of work extend beyond the expiration dates of the required insurance policies initially approved by the City, CONTRACTOR must provide updated certificates and endorsements indicating that the required coverage, terms and conditions are still in place. **Renewal certificates and updated endorsements shall be mailed to the Designated Project Manager.**

Cancellation

CONTRACTOR shall ensure that coverage shall not be cancelled, reduced or otherwise materially changed except after thirty (30) days' prior written notice has been given to the City.

Reporting Requirements

Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

Consistent with Public Policy

The insuring provisions, insofar as they may be judged to be against public policy shall be void and unenforceable only to the minimum extent necessary so that the remaining terms and provisions herein may be consistent with public policy and thus enforceable.

**EXHIBIT 6.10
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

FORM OF ASSIGNMENT OF CELL SITE AGREEMENT

[See Attached]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant to
Government Code Section 27383

ASSIGNMENT AND ASSUMPTION OF
CELL SITE ACCESS EASEMENT AGREEMENT
(MIRAFLORES HOUSING DEVELOPMENT COMMUNITY –
MARKET RATE RESIDENTIAL)

THIS ASSIGNMENT AND ASSUMPTION OF CELL SITE ACCESS EASEMENT AGREEMENT (this “**Assignment**”) is made as of _____, 20__, by and between the SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 (“**Assignor**”) and MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company (“**Assignee**”).

A. Assignee is the fee simple owner of that certain property located within the City of Richmond, County of Contra Costa, State of California (the “**Property**”), which it acquired from Assignor pursuant that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) (the “**DDA**”), dated as of July 19, 2016, as set forth in the grant deed recorded concurrently herewith.

B. Portions of the Property are subject to an easement created by that certain Easement Agreement, dated as of June 30, 2006 and entered into as of March 17, 2011 by and among Richmond Community Redevelopment Agency, a public body corporate and politic to which Assignor is the successor in interest, and the Sakai Children Co., a California general partnership, Perry K. Sakai, Margery M. Nakamura, and Wilma E. Kanzaki, trustees of the Roy & Shigeo Sakai Family Trust, and Charlotte T. Sakai (collectively, “**Sakai**”), a memorandum of which was recorded on January 11, 2012, as Instrument No. 20120006847 in the Official Records of Contra Costa County, and as amended by that certain First Amendment to Easement Agreement (Miraflores) dated and entered into as of November 3, 2015 by and among Assignor and Sakai (as amended, the “**Cell Site Access Easement Agreement**”).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the applicable terms and conditions of the DDA, including but not limited to Section 6.10, the parties hereto hereby agree as follows:

1. Assignment. Assignor, without representation or warranty, hereby assigns, transfers and grants to Assignee, and its successors and assigns, any and all of the rights, title and interest and obligations, duties, responsibilities, conditions and restrictions under the Cell Site Access Easement Agreement (collectively, "Rights and Obligations").

2. Assumption of Obligations. Assignee, for itself and its successors and assigns, hereby accepts the assignment and assumes any and all of the Rights and Obligations. Assignee agrees to comply with, perform and execute all of the covenants and obligations of Assignor arising from or under the Cell Site Access Easement Agreement. Assignee shall indemnify and hold harmless Assignor from and against any and all liability, loss, damage or expenses (including, without limitation, reasonable attorneys' fees) arising or resulting from the failure of Assignee to pay or perform faithfully and punctually any liability or obligation hereby assumed.

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the Effective Date.

ASSIGNOR: SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM:

By: _____
Agency Attorney

ASSIGNEE: MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company

By: _____
Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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STATE OF CALIFORNIA)

COUNTY OF _____)

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WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT 11.6
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

MEMORANDUM OF DDA

[See Attached]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant
to Government Code Section 27383

MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT
(Miraflores Housing Development Community (Market Rate Residential))

THIS MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT (this "**Memorandum**") is made as of _____, 2016, by and between the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 ("**Agency**"), and Miraflores Community Devco, a California limited liability company, ("**Developer**") to confirm that Agency and Developer have entered into that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) dated as of July 19, 2016, which may be amended from time to time in accordance with the terms stated therein (the "**DDA**"). The DDA imposes certain conditions, restrictions and covenants (including but not limited to, construction requirements, operating covenants, and transfer restrictions) on and with respect to the real property described in **Exhibit A** attached hereto and incorporated herein (the "**Property**"). The DDA is a public document and may be reviewed at the principal office of the Agency.

This Memorandum is prepared for the purpose of recordation only, and it in no way modifies the provisions of the DDA.

This Memorandum shall extend to and be binding upon the parties hereto and their legal representatives, heirs, successors, and assigns.

This Memorandum may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have caused this Memorandum to be duly executed as of the date first above written.

AGENCY:

SUCCESSOR AGENCY TO THE RICHMOND COMMUNITY REDEVELOPMENT AGENCY, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012

By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

DEVELOPER:

MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company

By: _____
Scott Hanks

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
(insert name and title of the officer) personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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WITNESS my hand and official seal.

Signature _____ (Seal)

**EXHIBIT A
TO
MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT**

LEGAL DESCRIPTION OF PROPERTY

[See Attached]

EXHIBIT A

The land referred to is situated in the County of Contra Costa, City of Richmond, State of California, and is described as follows:

PARCEL ONE:

BEING A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208783, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208785, AND A PORTION OF THOSE PARCELS OF LAND DESCRIBED IN THE GRANT DEED TO RICHMOND COMMUNITY REDEVELOPMENT AGENCY RECORDED JUNE 30, 2006 AS DOCUMENT NUMBER 2006-208787, AND A PORTION OF PARCELS 2 AND 3, AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED TO THE CITY OF RICHMOND RECORDED AUGUST 4, 2015 AS DOCUMENT NUMBER 2015-161774, AND A PORTION OF SOUTH 47TH STREET, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 14, AS SAID LOT 14 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF ALTA PUNTA TRACT", RECORDED APRIL 22, 1905, IN BOOK D OF MAPS, AT PAGE 90, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE NORTH 00°41'22" EAST 210.00 FEET; THENCE NORTH 89°18'38" WEST 100.00 FEET; THENCE NORTH 00°41'22" EAST 110.00 FEET; THENCE, NORTH 89°18'38" WEST 100.00 FEET TO THE EAST LINE OF SOUTH 47TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 279.30 FEET TO THE EASTERLY PROJECTION OF THE NORTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID EASTERLY PROJECTION AND SAID NORTH LINE, NORTH 89°18'38" WEST 297.45 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 00°41'22" EAST 349.20 FEET; THENCE NORTH 89° 18' 38" WEST 212.55 FEET TO THE EAST LINE OF SOUTH 45TH STREET; THENCE ALONG SAID EAST LINE, NORTH 00°41'22" EAST 189.41 FEET TO THE SOUTH LINE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (B.A.R.T.) RIGHT-OF-WAY; THENCE ALONG SAID SOUTH LINE, SOUTH 89° 15' 04" EAST 428.25 FEET; THENCE LEAVING SAID SOUTH LINE, SOUTH 00°41'22" WEST 111.48 FEET; THENCE SOUTH 89°18'38" EAST 41.75 FEET; THENCE ALONG THE ARC OF A TANGENT 78.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 122.52 FEET; THENCE SOUTH 00°41'22" WEST 5.00 FEET; THENCE, SOUTH 89°18'38" EAST 18.17 FEET; THENCE ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33°12'56", AN ARC DISTANCE OF 14.49 FEET; THENCE SOUTH 56°05'42" EAST 11.32 FEET; THENCE ALONG THE ARC OF A TANGENT 34.03 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 34°48'11", AN ARC DISTANCE OF 20.67 FEET; THENCE SOUTH 00°41'22" WEST 266.10 FEET; THENCE ALONG THE ARC OF A TANGENT 24.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 65°01'47", AN ARC DISTANCE OF 27.24 FEET; THENCE SOUTH 27°22'05" EAST 712.89 FEET TO THE NORTH LINE OF WALL AVENUE; THENCE ALONG SAID NORTH LINE, NORTH 89°18'38" WEST 213.69 FEET TO SAID POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT THE NORTHEAST CORNER OF LOT 17, AS SAID LOT 17 IS SHOWN AND SO DESIGNATED ON THAT MAP ENTITLED "AMENDED MAP OF MOUND TRACT", RECORDED APRIL 12, 1906, IN BOOK 'F' OF MAPS, AT PAGE 118, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY; THENCE FROM SAID POINT OF BEGINNING, ALONG THE EAST LINE OF SAID TRACT (F M 118), SOUTH 00°41'22" WEST 162.10 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE SOUTH LINE OF SAID TRACT, NORTH 89°18'38" WEST 200.00 FEET; THENCE LEAVING SAID SOUTH LINE, NORTH 00°41'22" EAST 162.10 FEET TO THE SOUTH LINE OF FLORIDA AVENUE; THENCE ALONG SAID SOUTH LINE OF FLORIDA AVENUE, SOUTH 89°18'38" EAST 200.00 FEET TO SAID POINT OF BEGINNING.

APN'S: 513-321-006, 007(PNT); 513-322-023, 024, 025, 037, 038(PTN); 513-330-001(PTN), 002(PNT), 005(PTN), 006(PTN), 007(PTN), 013 & 014

**EXHIBIT 11.6
TO
DISPOSITION AND DEVELOPMENT AGREEMENT
FOR MIRAFLORES HOUSING DEVELOPMENT COMMUNITY
(MARKET RATE RESIDENTIAL)**

MEMORANDUM OF DDA

[See Attached]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Successor Agency to the Richmond
Community Redevelopment Agency
450 Civic Center Plaza
Richmond, CA 94804
Attn: Agency Executive Director

No fee for recording pursuant
to Government Code Section 27383

MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT
(Miraflores Housing Development Community (Market Rate Residential))

THIS MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT (this "**Memorandum**") is made as of _____, 2016, by and between the Successor Agency to the Richmond Community Redevelopment Agency, an entity created and organized under AB 1X 26 enacted by the California Legislature on June 28, 2011 and AB 1484 enacted by the California Legislature on June 27, 2012 ("**Agency**"), and Miraflores Community Devco, a California limited liability company, ("**Developer**") to confirm that Agency and Developer have entered into that certain Disposition and Development Agreement for Miraflores Housing Development Community (Market Rate Residential) dated as of July 19, 2016, which may be amended from time to time in accordance with the terms stated therein (the "**DDA**"). The DDA imposes certain conditions, restrictions and covenants (including but not limited to, construction requirements, operating covenants, and transfer restrictions) on and with respect to the real property described in **Exhibit A** attached hereto and incorporated herein (the "**Property**"). The DDA is a public document and may be reviewed at the principal office of the Agency.

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IN WITNESS WHEREOF, the parties have caused this Memorandum to be duly executed as of the date first above written.

AGENCY:

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By: _____
Executive Director

Attest:

By: _____
Clerk of the Agency

Reviewed by:

By: _____
Agency Attorney

DEVELOPER:

MIRAFLORES COMMUNITY DEVCO, LLC, a California limited liability company

By: _____
Scott Hanks

Its: _____

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STATE OF CALIFORNIA)

COUNTY OF _____)

On _____ before me _____
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TO
MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT**

LEGAL DESCRIPTION OF PROPERTY

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