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DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF ROSEVILLE

AND

ROSEVILLE LAND HOLDINGS, LLC

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Development Agreement" or "Agreement") is made and entered into as of February ___, 2022 ("Agreement Date") by and between the CITY OF ROSEVILLE, a municipal corporation organized and existing under the laws of the State of California ("City"), and Roseville Land Holdings, LLC, a California limited liability company ("Developer" or "Landowner"), pursuant to the authority of Sections 65864 through 65869.5 of the Government Code of California. City and Developer are referred to individually as "Party," and collectively as the "Parties."

RECITALS

This Agreement is entered upon the basis of the following facts, understandings and intentions of City and Developer.

A. To strengthen the public planning process and reduce the risks of development, the Legislature of the State of California enacted Section 65864 et seq. of the Government Code (the "Development Agreement Legislation"), which authorizes City and a developer having a legal or equitable interest in real property to enter into a binding development agreement, establishing certain development rights in the property.

B. Pursuant to Government Code Section 65865, City has adopted rules and regulations establishing procedures and requirements for consideration of development agreements, which procedures and requirements are contained in City Municipal Code Chapter 19.84 (the "City Development Agreement Regulations"). This Development Agreement has been processed in accordance with the City Development Agreement Regulations.

C. Developer has a legal interest in certain real property consisting of approximately 19.52 gross acres located at 540, 556, 564, 572, and 580 Gibson Drive and consisting of Assessor Parcel numbers 363-011-002 through 363-011-005 and 363-011-007, as more particularly described in Exhibit A attached hereto, and as diagrammed in Exhibit B attached hereto (the "Property").

D. Developer intends to develop the Property as a residential community of not less than 300 dwelling units, including affordable dwelling units (defined more fully in Article 2 below as the "Project").

E. The complexity of the Project would be difficult for Developer to undertake if City had not determined, through this Development Agreement, to inject a sufficient degree of certainty in the land use regulatory process to justify the substantial financial investment associated with development of the Project.

F. City desires to promote the productive use of property and encourage quality development and economic growth, thereby enhancing housing opportunities for residents and meeting the City's regional housing needs assessment ("RHNA"). City also desires to gain the Public Benefits (as defined in Section 3.1) of the Project, which are in addition to those dedications, conditions and exactions required by laws or regulations and as set forth in this

Development Agreement. City has determined that by entering into this Development Agreement: (1) City will ensure the productive use of property and foster orderly growth and quality development in City; (2) development will proceed in accordance with the goals and policies set forth in the City General Plan (the "General Plan") and will implement City's stated General Plan policies; (3) City will benefit from increased housing opportunities in the City created by the Project; and (4) City will receive Public Benefits (as defined in Section 3.1) provided by the Project for the residents of City. City intends that this Agreement be binding on all persons or entities holding legal or equitable interest in the Property and the provisions of this Agreement shall constitute covenants which shall run with the Property and the benefits and burdens hereof shall bind and inure to all subsequent purchasers or transferees and successors-in-interest to and assigns of Developer.

G. Developer has applied for, and City has granted, the Project Approvals (as defined in Section 1.4). As part of the Project Approvals, City has undertaken, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter "CEQA"), the required analysis of the environmental effects that would be caused by the Project and the City Council has determined that the actions to be taken pursuant to this Agreement will not result in environmental impacts which are new or substantially changed from those already analyzed and addressed in the General Plan 2035 ("General Plan") Environmental Impact Report and addendum thereto (collectively, "EIR") and, therefore has determined that none of the elements set forth in Public Resources Code Section 21166 or Section 15162 of the CEQA Guidelines exists and therefore has determined, in accordance Public Resources Code Section 21166 and Section 15162 of the CEQA Guidelines, that no subsequent or supplemental Environmental Impact Report, Negative Declaration or Mitigated Negative Declaration is required to be prepared prior to adopting the Ordinance approving this Agreement.

H. In addition to the Project Approvals, the Project may require various additional land use and construction approvals, termed Subsequent Approvals (as defined in Section 1.4.7), in connection with development of the Project.

I. City has given the required notice of its intention to adopt this Development Agreement and has conducted public hearings thereon pursuant to Government Code Section 65867. As required by Government Code Section 65867.5, City has found that the provisions of this Development Agreement and its purposes are consistent with the goals, policies, standards and land use designations specified in the General Plan and the North Central Roseville Specific Plan ("NCRSP"), as amended by the Project.

J. On [date], the City Planning Commission ("Planning Commission"), the initial hearing body for purposes of development agreement review, recommended approval of this Development Agreement pursuant to Resolution No. [_____]. On [date], the City Council ("City Council") adopted its Ordinance No. [_____] approving this Development Agreement and authorizing its execution.

K. The terms and conditions of this Development Agreement have undergone extensive review by Developer, City staff, its Planning Commission and its City Council at publicly noticed meetings and have been found to be fair, just and reasonable and in conformance with the City General Plan, the Development Agreement Legislation, and the City

Development Agreement Regulations and, further, the City Council finds that the economic interests of City's residents and the public health, safety and welfare will be best served by entering into this Development Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, City and Developer agree as follows:

ARTICLE 1.
GENERAL PROVISIONS

1.1 Parties.

1.1.1 City. City is a California municipal corporation, with offices located at 311 Vernon Street, Roseville, California. "City," as used in this Development Agreement, shall include City and any assignee of or successor to its rights, powers and responsibilities.

1.1.2 Developer. Developer is a California limited liability company, with offices located at 130 Vantis Street, Suite 200, Aliso Viejo, California. "Developer" or "Landowner", as used in this Development Agreement, shall include each and every subsequent purchaser or transferee of the Property or any portion thereof from Developer, as well as any permitted assignee or successor-in-interest as herein provided.

1.2 Property Subject to this Development Agreement.

1.2.1 Property. All of the Property, as described in Exhibit A and shown in Exhibit B, shall be subject to this Development Agreement.

1.3 Term and Effect on Prior Development Agreement.

1.3.1 Effective Date. This Development Agreement shall become effective upon the effectiveness of the ordinance approving this Agreement (the "Effective Date").

1.3.2 Term of the Agreement. The term ("Term") of this Development Agreement shall commence upon the Effective Date and shall continue in full force and effect for a period of twenty (20) years, unless extended or earlier terminated as provided in this Agreement. The Term has been established by the Parties as a reasonable estimate of the time required to develop the Project and obtain the Public Benefits of the Project.

1.3.3 Effect on Prior Development Agreement. Prior developer of the Property and the City had previously entered into a development agreement, approved and adopted pursuant to Ordinance No. 3908 on January 8, 2003, and assigned recorder number DOC-2004-0056049, related to the development of the Property within the City (the "Prior Development Agreement"). The Prior Development Agreement expired in 2010 and the parties intend and agree hereby that the Prior Development Agreement, as it relates to the Property, is replaced in whole by this Agreement upon the approval of this Agreement.

1.4 Project Approvals. Developer has applied for and obtained various environmental and land use approvals and entitlements related to the development of the Project, as described

below. For purposes of this Development Agreement, the term "Project Approvals" shall mean all of the approvals, plans and agreements described in this Section 1.4.

1.4.1 Addendum. The addendum to the General Plan EIR (the "Addendum"), which was prepared pursuant to CEQA, and supported the findings by the City Council on [date], by Resolution No. _____ that no additional CEQA analysis is required for the Project.

1.4.2 General Plan Amendments. On [date], following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Resolution No. _____, approved amendments to the City General Plan (the "General Plan Amendment"), which alter the Property's General Plan land use designation to [_____], which permits the residential uses proposed by the Project.

1.4.3 Specific Plan Amendment. On [date], following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council approved an amendment to the NCRSP (the "Specific Plan Amendment") to allow the Project and its uses. The NCRSP, as amended by the Specific Plan Amendment, is referred to herein as the "Specific Plan".

1.4.4 Development Agreement. On [date], following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Ordinance No. [_____], approved this Development Agreement and authorized its execution.

1.4.5 Rezone. On [date], following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council approved a zone change (the "Rezone") to allow residential uses on the Property.

1.4.6 Tentative Subdivision Map. This Project requires approval of a Tentative Subdivision Map (the "Tentative Map") to subdivide the Property and record necessary easements.

1.4.7 Subsequent Approvals. In order to develop the Project as contemplated in this Development Agreement, the Project may require land use approvals, entitlements, development permits, and use and/or construction approvals other than those listed in Sections 1.4.1 through 1.4.6 above , which may include, without limitation: development plans, amendments to applicable redevelopment plans, conditional use permits, variances, subdivision approvals, street abandonments, design review approvals, demolition permits, improvement agreements, infrastructure agreements, grading permits, building permits, right-of-way permits, lot line adjustments, site plans, sewer and water connection permits, certificates of occupancy, parcel maps, lot splits, landscaping plans, master sign programs, transportation demand management programs, encroachment permits, and amendments thereto and to the Project Approvals (collectively, "Subsequent Approvals"). Such Subsequent Approvals shall be in accordance and subject to this Development Agreement and will become Project Approvals once approved by City.

ARTICLE 2.
DEVELOPMENT OF THE PROPERTY

2.1 Project Development. Subject to the terms of this Development Agreement, Developer shall have a vested right, but not obligation, to develop the Project on the Property, in accordance with the Vested Entitlements (defined in Section 2.2).

2.2 Vested Entitlements. The permitted uses of the Property, the maximum density and/or number of residential units, the intensity of use, the maximum height and size of the proposed buildings, provisions for reservation or dedication of land for public purposes, the conditions, terms, restrictions, and requirements for subsequent discretionary actions, the provisions for public improvements and financing of public improvements, and the other terms and conditions of development applicable to the Property shall be those set forth in the Project Approvals and this Development Agreement, including, the General Plan on the Agreement Date, including the General Plan Amendment ("Applicable General Plan"), the Specific Plan on the Agreement Date, including Specific Plan Amendment ("Applicable Specific Plan"), the City Zoning Ordinance on the Agreement date, including the Rezone ("Applicable Zoning Ordinance"), and other rules, regulations, ordinances and policies of City applicable to development of the Property on the Agreement Date (collectively, the "Applicable Rules") and together with the Project Approvals, the "Vested Entitlements." City hereby agrees to be bound with respect to the Vested Entitlements, subject to Developer's compliance with the terms and conditions of this Development Agreement. The intent of this Section 2.2 is to cause all development rights which may be required to develop the Project in accordance with the Project Approvals to be deemed to be "vested rights" as that term is defined under California law applicable to the development of land or property and the right of a public entity to regulate or control such development of land or property, including, without limitation, vested rights in and to building permits and certificates of occupancy. Subject to applicable law, Developer's vested right to proceed with the development of the Property shall be subject to Subsequent Approvals, provided that any conditions, terms, restrictions and requirements for such Subsequent Approvals shall not prevent development of the Property for the use, or reduce the density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Developer is not in default under this Development Agreement.

2.3 Effect of Project Approvals and Applicable Rules; Future Rules.

2.3.1 Inconsistency. To the extent any future rules, ordinances, regulations or policies applicable to development of the Property ("Future Rules") are inconsistent with the permitted uses, density and intensity of use, rate or timing of construction, maximum building height and size, provisions for reservation and dedication of land, or other elements in the Vested Entitlements under the Project Approvals as provided in this Agreement, the terms of the Project Approval and this Agreement shall prevail, unless the parties mutually agree to alter this Development Agreement. To the extent any future rules, ordinances, fees, regulations or policies applicable to development of the Property are not inconsistent with the permitted uses, density and intensity of use, rate or timing of construction, maximum building height and size, or provisions for reservation or dedication of land, or other elements in the Vested Entitlements under the Project Approvals or under any other terms of this Development Agreement, such rules, ordinances, regulations or policies shall be applicable. Without limiting the foregoing, any

future City rules, ordinances, regulations or policies shall be deemed to conflict with Project Approvals or this Development Agreement or reduce the development rights provided hereby if it would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which applies to or affects the Project:

a. Change any land use designation or permitted use of the Property;

b. Limit or control the availability of public utilities, services or facilities or any privileges or rights to public utilities, services, or facilities except as authorized by this Development Agreement;

c. Limit or control the location, setback or height of buildings and structures or the density of development of the Project in a manner that is inconsistent with or more restrictive than the limitations included in the Project Approvals;

d. Limit or control the rate, timing, phasing or sequencing of the development or construction of all or any part of the Project in any manner; or

e. Apply to the Project any City rules, ordinances, regulations or policies otherwise allowed by this Development Agreement that is not uniformly applied on a City-wide basis or to all substantially similar types of development projects and project sites or to properties which are uniformly applied to all properties which are similarly situated.

2.3.2 Developer's Right to Rebuild. City agrees that Developer may renovate or rebuild the Project within the Term of this Agreement should it become necessary due to natural disaster, changes in seismic requirements, or should the buildings located within the Property become functionally outdated, within Developer's sole discretion, due to changes in technology. Any such renovation or rebuilding shall be subject to the permitted uses, density and intensity of use, rate or timing of construction, maximum building height and size, or provisions for reservation and dedication of land vested by this Agreement, and shall comply with the Project Approvals, the building codes existing at the time of such rebuilding or reconstruction, and any applicable requirements of CEQA.

2.3.3 Application of Changes. This Subsection 2.3 shall not preclude the application of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations, to development of the Property. To the extent that such changes in City laws, regulations, plans or policies prevent, delay or preclude compliance with one or more provisions of this Development Agreement, City and Developer shall take such action as may be required pursuant to this Development Agreement to comply therewith.

2.3.4 Authority of City. This Subsection 2.3 shall not be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit discretion of City or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by City or any of its officers or officials, provided that subsequent discretionary actions shall not prevent or delay development of the Property for the uses and to the density and intensity of development as provided by the Project Approvals

and this Development Agreement, in effect as of the Effective Date of this Development Agreement.

2.3.5 Conflicts. In the event of an irreconcilable conflict between the provisions of the Project Approvals (on the one hand) and the Applicable Rules (on the other hand), the provisions of the Project Approvals shall apply. In the event of a conflict between the Project Approvals (on the one hand) and this Development Agreement, in particular, (on the other hand), the provisions of this Development Agreement shall control.

2.4 Development Construction Completion.

2.4.1 Timing of Development; *Pardee* Finding. To cure the deficiency identified in *Pardee Construction Co. v. City of Camarillo*, 37 Cal. 3d 465 (1984), the Parties acknowledge and provide that, subject to any phasing requirements that may be required by the Project Approvals, Developer shall have the right (without obligation) to develop the Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment.

2.4.2 Moratorium. Subject to applicable law relating to the vesting provisions of development agreements, Developer and City intend that, except as otherwise provided herein, this Development Agreement shall vest the Project Approvals against subsequent initiatives, referenda, City resolutions, ordinances and initiatives ("City Law") that directly or indirectly limit the rate, timing or sequencing of development or prevent or conflict with the permitted uses, density and intensity of uses or the maximum building heights and sizes as set forth in the Project Approvals. Developer shall, to the extent allowed by the laws pertaining to development agreements, be subject to any growth limitation ordinance, resolution, rule, regulation or policy which is adopted on a uniformly applied, city-wide or area-wide basis and directly concerns a public health or safety issue, in which case City shall treat Developer in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by said public health or safety issue. City shall use its best efforts and due diligence to obtain the permits, approvals and financing necessary for such facilities and to design and complete the facilities on a timely basis.

By way of example only, an ordinance which precluded the issuance of a building permit because City had inadequate sewage transmission capacity to meet the demand therefor (either city-wide or in a designated sub-area of the City) would directly concern a public health issue under the terms of this paragraph and would support a denial of a building permit within the Property, so long as City were also denying city-wide or area-wide all other requests for building permits which require sewage transmission capacity and City was using its best efforts to resolve such capacity problem. However, an attempt to limit the issuance of building permits because of a general increase in traffic congestion levels in the City would not directly concern a public health or safety issue under the terms of this paragraph.

2.4.3 No Other Requirements. Nothing in this Development Agreement is intended to create any affirmative development obligations to develop the Project at all or in any particular order or manner, or liability in Developer under this Development Agreement if the development fails to occur.

2.5 Life of Project Approvals and Subdivision Maps.

2.5.1 Life of Subdivision Maps. The terms of any subdivision or parcel map for the Property, any amendment or reconfiguration thereto, or any subsequent tentative map, shall be automatically extended such that such tentative maps remain in effect for a period of time coterminous with the term of this Development Agreement.

2.5.2 Life of Other Project Approvals. The term of all other Project Approvals shall be automatically extended such that these Project Approvals remain in effect for a period of time at least as long as the term of this Development Agreement.

2.5.3 Termination of Agreement. In the event that this Agreement is terminated prior to the expiration of the Term of the Agreement, the term of any subdivision or parcel map or any other Project Approval and the vesting period for any final subdivision map approved as a Project Approval shall be the term otherwise applicable to the approval.

2.6 Further CEQA Environmental Review.

2.6.1 Reliance on Project Addendum. The Addendum, which has been adopted by City and complies with CEQA, addresses the potential environmental impacts of the entire Project as it is described in the Project Approvals. It is agreed that, in acting on any discretionary Subsequent Approvals for the Project, City will rely on the Addendum to satisfy the requirements of CEQA to the fullest extent permissible by CEQA and will not impose on the Project any environmental mitigation measures other than those specifically imposed by the Project Approvals and the Addendum or specifically required by the Applicable Rules. Nothing in this Agreement shall be construed to require CEQA review of Ministerial Approvals.

2.6.2 Subsequent CEQA Review. If additional CEQA documentation is required for any discretionary Subsequent Approval for the Project, then the scope of such documentation shall be focused, to the extent possible consistent with CEQA, on the specific subject matter of the Subsequent Approval, and the City shall conduct such CEQA review as expeditiously as possible.

2.7 Building Regulations. "Building Regulations" consist of those Uniform Building Code and California Building Codes, as adopted by the Roseville Municipal Code and any ordinances or policies which interpret these codes where such ordinances establish construction standards that are intended to be applied ministerially to the construction of improvements on private property and public infrastructure. Building Regulations applicable to building and construction throughout the City at the time Developer applies for the applicable permits for construction of any portion of the Project shall be applicable to the building and construction authorized by such permit, except if such Building Regulations conflict in any manner with the Vested Entitlements. In the event of such conflict, the particular Building Regulation which is in conflict with the Vested Entitlements shall not apply to or govern development or construction of the Project unless it is determined by City to be required by Title 16 of the Roseville Municipal Code, as it exists at the time of the conflict.

2.8 City Processing Fees and Charges. Developer shall pay those processing, inspection and plan check fees and charges required by City under then current regulations for

processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Developer hereunder.

2.9 Affordable Project. The Developer shall develop, upon satisfaction of the conditions set forth in Section 2.10, the Project as a one hundred (100) percent affordable housing project, with all units other than the Manager's Unit(s) as permitted by TCAC and CDLAC (defined in Section 2.9.1), restricted to Qualifying Households who are charged by and pay to the Developer the Qualifying Rent ("Affordable Project"). The requirements for each unit, including calculation of median income and resulting rents, will be set forth in a separate regulatory agreement in substantial conformance with the form attached to the affordable housing agreement (the "AHRA"), as set forth in Section 2.9.1. Developer shall submit as many applications for affordable-housing financing, as defined in Section 2.10, as commercially reasonable to submit by the end of 2024, but not less than three applications, but only if all discretionary land use approvals other than design review are approved by March 1, 2023. If, consistent with Section 2.10, Developer cannot obtain a bond and tax credit allocation after submitting applications as provided herein, then Developer can elect to develop the Self-Financed Project, as further defined in Section 2.11, and has no obligation to develop the Affordable Project. Developer commits to using good-faith efforts to submit complete and competitive applications, which may include Developer financial participation up to the value of the Property.

2.9.1 Affordable Housing Regulatory Agreement. If the Developer proceeds with the Affordable Project, the Developer and the City shall enter into an AHRA prior to issuance of building permits for the Project, which will identify current income limits and rental rates for the Restricted Units, in the form substantially similar to that attached hereto as Exhibit F. Notwithstanding the foregoing, the parties agree that the affordability range of the units shall be between thirty (30) and eighty (80) percent area median income ("AMI"), calculated as defined in the AHRA, with an average affordability of sixty (60) percent AMI. The AHRA shall identify the obligation to produce and deliver the applicable number of rental units affordable to very low or low-income households to be provided by the Affordable Project. The term of the Agreement shall require the affordable units to be rented only to qualified affordable households for a period of fifty-five (55) years, commencing on the date of issuance of a certificate of occupancy for each affordable unit.

a. The City agrees that the AHRA shall be made junior and subordinate to Permitted Mortgages given in connection with the financing of the Project, including any refinancing thereof established and obtained pursuant to and in compliance with the provisions of this Agreement, and to any regulatory agreement with California Tax Credit Allocation Committee ("TCAC") or California Debt Limit Allocation Committee ("CDLAC"). Economic Development Director or his/her designee is hereby authorized and directed to execute such subordination agreements, intercreditor agreements, stand still agreements, modifications to this Agreement and the AHRA, and/or other documents as may be requested by the Permitted Mortgagees to evidence subordination to the financing for the Affordable Project, without further authorization from the City.

b. The AHRA will define the "Minimum Set-Aside Test" as the set-aside test selected by the Owner/Developer pursuant to Section 42(g) of the Internal Revenue Code (the "Code") with respect to the percentage of Regulated Units to be occupied by tenants with incomes equal to no more than a certain percentage of area median income. Under the AHRA, the City shall allow the Owner/Developer to select the 40-60 Set-Aside Test as the Minimum Set-Aside Test or the Average Income Set-Aside Test as the Minimum Set-Aside Test, at Developer's discretion. "Average Income Set-Aside Test" means the Minimum Set-Aside Test described in Section 42(g)(1)(C) of the Code.

2.9.2 Subsidies. No City subsidies will be required/requested due to the Rezone. However, development fee deferral and financing programs can be offered through the Economic Development Division as a result of providing affordable housing and if the Affordable Project proceeds, the City commits to supporting deferring development fees for the Affordable Project for at least three (3) years following the date that building permits are issued for vertical construction of apartment units, or on occupancy, whichever occurs first.

2.10 Applications for Project Housing Finance Sources for the Affordable Project. The Parties acknowledge that applying for volume cap for tax-exempt bonds from CDLAC and Low-Income Housing Tax Credits from TCAC is a competitive process and there is no assurance that the Developer will successfully secure such bonds and credits from CDLAC and TCAC, respectively. If the Developer applies for volume cap for tax-exempt bonds from CDLAC and applies for Low-Income Housing Tax Credits and State Tax Credits from TCAC as commercially reasonable and as specified in Section 2.9, and is unsuccessful in obtaining such bonds or credits after submitting applications consistent with the terms of Sections 2.9 and 2.10, then Developer shall not be required to develop the Affordable Project, but instead may develop, with its own funding sources, an approximately 360-unit project ("Self-Financed Project"), as further defined in Section 2.11. If requested and the Developer is in compliance with this Agreement, the City shall provide an estoppel to CDLAC that indicates Developer is in compliance as of the date of the Bond Application.

2.11 Self-Financed Project. The Self-Financed Project shall include no less than twenty (20) percent of the units as deed-restricted affordable units, consisting of ten (10) percent low income (eighty (80) percent AMI) units and ten (10) percent very-low income (fifty (50) percent AMI) units, as AMI is defined in the affordable housing regulatory agreement applicable to the Self-Financed Project. The Self-Financed Project would not require an award of Low-Income Housing Tax Credits from TCAC, an award of volume cap for tax-exempt bonds from CDLAC, or City subsidies. If the Developer proceeds with the Self-Financed Project, Developer shall reimburse the City for entitlement costs associated with the General Plan Amendment, Specific Plan Amendment, Rezone, and Development Agreement necessary to entitle the Project and that had been paid for with City Housing Element Implementation Funds. At Developer's election, the Developer can seek approval of any of the benefits to which the Self-Financed Project may be entitled pursuant to Government Code section 65915. The requirements for each affordable unit, including calculation of median income and resulting rents, will be set forth in the Affordable Rental Housing Agreement ("ARHA"), as described in Section 2.11.1.

2.11.1 Prior to the issuance of a building permit for the applicable Self-Financed Project, the parties shall enter into an ARHA for such residential rental units

affordable to low-income and very low-income households, which shall identify the obligation to produce and deliver the applicable number of rental units affordable to very low or low income households to be provided by the Self-Financed Project, as well as the median income and resulting rents, the form of which shall be in substantial conformance with Exhibit G. The term of this ARHA shall require the affordable units to be rented only to qualified affordable households for a period of fifty-five (55) years, commencing on the date of issuance of a certificate of occupancy for each affordable unit. The City agrees that the ARHA shall be made junior and subordinate to Permitted Mortgages given in connection with the financing of the Project, including any refinancing thereof established and obtained pursuant to and in compliance with the provisions of this Agreement. Economic Development Director or his/her designee is hereby authorized and directed to execute such subordination agreements, intercreditor agreements, stand still agreements, modifications to this Agreement and the ARHA, and/or other documents as may be requested by the Permitted Mortgagees to evidence subordination to the financing for the Self-Financed Project, without further authorization from the City.

2.12 Voluntary Offering of Affordable Housing. This Agreement, and the affordable housing contemplated herein, is entered into voluntarily by the Parties and is not required by any City inclusionary housing ordinance.

ARTICLE 3.
DEVELOPER OBLIGATIONS

3.1 Public Benefits. In consideration of, and in reliance on, City agreeing to the provisions of this Development Agreement, Developer will provide the public benefits ("Public Benefits") described in Exhibit C, which are over and above those dedications, conditions and exactions required by laws or regulations. In addition, if Developer proceeds with the Self-Financed Project, Developer shall provide the City with a public benefit payment of one thousand ten dollars ($1,010.00) for each market-rate unit therein.

3.2 Development Fees, Exactions; and Conditions.

3.2.1 General. All fees, exactions, dedications, reservations or other impositions to which the Project would be subject, but for this Development Agreement, are referred to in this Development Agreement either as "Processing Fees" (as defined in Section 3.2.2) or "Impact Fees" (as defined in Section 3.2.3).

3.2.2 Processing Fees. "Processing Fees" mean fees charged on a Citywide basis to cover the cost of City review of applications for any permit or other review by City departments. Subject to Section 2.9.2, applications for Subsequent Approvals for the Project shall be charged Processing Fees to allow City to recover its actual and reasonable costs of processing Developer's Subsequent Approvals with respect to the Project, including but not limited to fees to cover time for staff review and technology fees to cover the cost of permitting software.

3.2.3 Impact Fees. "Impact Fees" means monetary fees, exactions or impositions, other than taxes or assessments, whether established for or imposed upon the

Project individually or as part of a class of projects, that are imposed by City on the Project in connection with any Project Approval for the Project for any purpose, including, without limitation, defraying all or a portion of the cost of public services and/or facilities construction, improvement, operation and maintenance attributable to the burden created by the Project. Any fee, exaction or imposition imposed on the Project which is not a Processing Fee is an Impact Fee. Except as otherwise provided herein, any and all required Impact Fees by Developer shall be made at the time and in the amount specified by then applicable City ordinances. Wherever this Development Agreement obligates Developer to design, construct or install any improvements, the cost thereof may be provided by Developer by a public financing mechanism, subject to and in accordance with the provisions thereof. Nothing in this Development Agreement shall diminish or eliminate any of Developer's rights set forth in Government Code Section 66000 *et seq.* ("AB 1600").

3.2.4 Fee Reductions or Credits. The Parties intend that the Impact Fees described in Section 3.2.3 are in lieu of any exactions, taxes, or assessments generally intended to address similar uses or purposes, and that Developer shall not be required to pay two times for any such exaction, fee, or assessment. Accordingly, the fees described in Section 3.2.3 shall be subject to reductions/credits in an amount equal to Developer's actual cost of complying with any such lawfully imposed exaction, tax, or assessment intended to address similar uses or purposes, whether imposed on the Project, the Property, the Project Approvals or the Subsequent Approvals. Prior to payment of fees, the Developer shall make a written request to City for any reduction/credit. Upon receipt of the written request, City and Developer shall meet, in good faith, to determine the appropriate reduction/credit. The final determination of the amount of the reduction/credit shall be made by the City.

3.3 Mitigation Measures. Notwithstanding any other provision in this Agreement to the contrary, as and when Developer elects to develop the Property, Developer shall be bound by, and shall perform, all mitigation measures and conditions of approvals in the Project Approvals.

3.4 Public Trail. Pursuant to the Easement and Maintenance Agreement entered into as of August 21, 2003, and assigned recorder's number DOC-2003-0178320, Developer dedicated to City a perpetual non-exclusive trail easement for pedestrian and bicycle access across the Property ("Trail"). As part of the Project, Developer will improve the Trail as anticipated by the Trail easement agreement ("Trail Easement Agreement") and the City will maintain the Trail. The Trail improvements are more specifically described in Exhibit D.

ARTICLE 4.
CITY OBLIGATIONS

4.1 Processing of Subsequent Approvals. By approving the Project Approvals, City has determined that the Project is in the best interests of the public health, safety and general welfare. The Subsequent Approvals shall be issued by City so long as they comply with this Agreement and applicable law and are consistent with the Project Approvals as set forth above. The City agrees to cooperate with Developer in securing all permits which may be required by City. With respect to any permit which calls for City approval, such approval shall not be unreasonably withheld. In the event State or Federal laws or regulations enacted after this

Agreement has been executed, or action of any governmental jurisdiction, prevent, delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended or suspended as may be necessary to comply with such State and Federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.Conditions of Subsequent Approvals. In connection with any Subsequent Approvals, City shall have the right to impose reasonable conditions including, without limitation, normal and customary dedications for rights of way or easements for public access, utilities, water, sewers, and drainage necessary for the Project; provided, however, such conditions and dedications shall not be inconsistent with the Applicable Rules or Project Approvals, nor inconsistent with the development of the Project as contemplated by this Agreement. Developer may protest any conditions, dedications or fees in accordance with California Government Code section 66020.

4.3 Infrastructure Capacity. Subject to Developer's installation of infrastructure in accordance with the requirements of the Project Approvals, City hereby acknowledges that it will endeavor to have sufficient capacity in its infrastructure, services and utility systems, including, without limitation, traffic circulation, storm drainage, flood control, electric service, sewer collection, sewer treatment, sanitation service and, except for reasons beyond City's control, water supply, treatment, distribution and service, as and when necessary to serve the Project as it is developed. The City is the water and electricity provider and to the extent that City renders these services or provides these utilities, City hereby agrees that it will serve the Project and that there shall be no restriction on hookups or service for the Project except for reasons beyond City's control.

4.4 Assistance with CDLAC and TCAC. The City agrees to strongly support the Affordable Project as the local reviewing agency for Developer's application for Low-Income Housing Tax Credits submitted to TCAC and for Developer's application for volume cap submitted to CDLAC. The City agrees to provide evidence to CDLAC and TCAC that the Project has been granted all necessary discretionary land use approvals that allow for housing and to hold a TEFRA Hearing in connection with Developer's application submitted to the California Debt Limit Allocation Committee in a timely manner and to support the Project at any such TEFRA Hearing. "TEFRA Hearing" means a public hearing by a jurisdiction, following public notice, in order to approve the issuance of qualified private activity bonds under Section 147(f) of the Code. If reasonable changes to this Agreement are required to comply with the requirements of TCAC or CDLAC, the City agrees to effectuate such changes to be in compliance with the requirements, provided that such changes shall be at no cost to the City and shall not adversely affect the rights of the City under this Agreement. The City agrees that they will support bonds issued by California Housing Finance Agency ("CalFHA") or the California Statewide Communities Development Authority ("CSCDA").

4.5 Welfare Exemption. The City acknowledges that if the Developer undertakes the Affordable Project, the Developer intends to obtain the welfare exemption from property taxes afforded under Section 214, subdivision (g), of the California Revenue and Taxation Code ("Welfare Exemption"). Nothing in this Agreement shall prohibit Developer from obtaining

such Welfare Exemption and the City agrees to provide all reasonable support and cooperation to Developer in securing the Welfare Exemption.

ARTICLE 5.
ADDITIONAL RIGHTS AND OBLIGATIONS OF THE PARTIES; ALLOCATIONS OF RIGHTS AND OBLIGATIONS OF THE PARTIES

5.1 Conveyance of Public Infrastructure.

5.1.1 Acceptance; Maintenance. Upon completion of any and all public infrastructure to be completed by Developer, including the Trail, and after complying with any requirements for such public infrastructure under this Agreement, Developer shall offer for dedication to City from time to time as such public infrastructure is completed, free and clear of any non-utility easements, encumbrances, conditions, or appurtenances, and City shall accept from Developer the completed public infrastructure (and release to Developer any bonds or other security posted in connection with performance thereof in accordance with the terms of such bonds), and thereafter City shall maintain the public infrastructure. Developer may offer dedication of public infrastructure in phases and the City, upon determination that the infrastructure meets all applicable City requirements and so long as all associated conditions for acceptance have been satisfied, shall accept such phased dedications and shall release associated bonds or other security in phases.

5.2 Public Improvements. City shall use its best efforts to work with Developer to ensure that all public infrastructure in connection with the Project is (i) designed and constructed in accordance with all applicable City standards, (ii) reviewed and accepted by City in the most expeditious fashion possible, and (iii) maintained by City after acceptance, including, without limitation, maintenance of the public parks. Notwithstanding the foregoing, Developer is ultimately responsible for designing and constructing the public infrastructure in accordance with all applicable City standards and this Agreement. Additionally, Developer (or its affiliates or contractor(s)) shall be responsible for obtaining all permits and approvals necessary for development of the public infrastructure.

5.3 Specific Plan and Related Conditions of Approvals.

5.3.1 Developer's Rights and Obligations. Developer shall be entitled to all of the rights, and shall be subject to all of the obligations, under the Specific Plan that (a) are set forth in those Sections of the Specific Plan that apply exclusively to the Project or the Property; or (b) are set forth in those Sections of the Specific Plan that apply nonexclusively to the Project or the Property, but only with respect to the share of such rights and obligations that is proportionately allocable to the Project or the Property.

5.3.2 Default. A default by any other party with respect to any obligation not identified as an obligation of Developer in the Specific Plan, this Agreement, or the General Plan, shall not constitute a default by Developer. In the event of any such default, the City shall not exercise any of the rights or remedies available to it in connection with such default in a manner that would adversely affect Developer or the development, use, operation or occupancy of the Property or the Project.

ARTICLE 6.
ANNUAL REVIEW

6.1 Annual Review. The annual review required by California Government Code Section 65865.1 and Section 19.84.080 of the City Municipal Code shall be conducted at least every twelve (12) months, as such period may be amended, during the term of this Agreement. Such review shall be limited in scope to compliance with the terms of this Agreement pursuant to Government Code Section 65865.1. Notice of such review shall include the statement that any review of obligations of Developer as set for in this Agreement may result in termination of this Agreement. A finding by the City of good faith compliance by Developer shall be conclusive with respect to the performance of Developer during the period preceding the review. Developer shall be responsible for the cost reasonably and directly incurred by the City to conduct such review, the payment of which shall be due in within thirty (30) days after conclusion of the review and receipt from the City of the bill for such costs.

Upon not less than thirty (30) days written notice by the City, Developer shall provide such information as may be reasonably requested and deemed to be required by the City to ascertain compliance with this Agreement.

In the same manner prescribed in Section 12, the City shall deposit in the mail to Developer or email Developer a copy of all staff reports and related exhibits concerning contract performance at least ten (10) calendar days prior to any such periodic review. Developer shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the City Council or, if the matter is referred to the Planning Commission, before the Planning Commission.

If City takes no action within thirty (30) days following the hearing required under City Municipal Code Section 19.94.080, Developer shall be deemed to have complied in good faith with the provisions of the Agreement.

Failure of the City to conduct an annual review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement nor shall the Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

6.2 Relationship to Default Provisions. The above procedures shall supplement and shall not replace that provision of Section 8.4 of this Development Agreement whereby either City or Developer may, at any time, assert matters which either Party believes have not been undertaken in accordance with this Development Agreement by delivering a written Notice of Default and following the procedures set forth in said Section 8.4.

ARTICLE 7.
AMENDMENTS

7.1 Amendments to or Cancellation of Development Agreement. This Development Agreement may be amended from time to time or canceled in whole or in part by mutual consent of both Parties in writing in accordance with the provisions of the Development Agreement Legislation and the City Development Agreement Regulations. Review and approval of an

amendment to this Development Agreement shall be strictly limited to consideration of only those provisions to be added or modified. All amendments to this Development Agreement shall automatically become part of the Project Approvals. The parties acknowledge that under the City Zoning Code and applicable rules, regulations and policies of the City, the Development Services Director has the discretion to approve minor modifications to approved land use entitlements without the requirement for a public hearing or approval by the City Council and that these Zoning Code provisions apply to development agreements, including this Agreement.

7.2 Amendments to Project Approvals. Project Approvals (except for this Development Agreement the amendment process for which is set forth in Section 7.1) may be amended or modified from time to time, but only at the written request of Developer or with the written consent of Developer and in accordance with Section 2.3. All amendments to the Project Approvals shall automatically become part of the Project Approvals. The permitted uses of the Property, the maximum density and/or number of residential units, the intensity of use, the maximum height and size of the proposed buildings, provisions for reservation or dedication of land for public purposes, the conditions, terms, restrictions and requirements for subsequent discretionary actions, the provisions for public improvements and financing of public improvements, and the other terms and conditions of development as set forth in all such amendments shall be automatically vested pursuant to this Development Agreement, without requiring an amendment to this Development Agreement. Amendments to the Project Approvals shall be governed by the Project Approvals and the Applicable Rules, subject to Section 2.3. The City shall not request, process or consent to any amendment to the Project Approvals that would affect the Property or the Project without Developer's prior written consent. Pursuant to the Zoning Code section 19.76.180, the approval of any minor modifications to the Project Approvals shall not constitute nor require an amendment to this Agreement by City Council to be effective.

ARTICLE 8.
DEFAULT, REMEDIES AND TERMINATION

8.1 Events of Default. Subject to any extensions of time by mutual consent of the Parties in writing, and subject to the provisions of Section 12.2 hereof regarding permitted delays and a Mortgagee's right to cure pursuant to Section 11.3 hereof, any failure by either Party to perform any material term or provision of this Agreement, including any default identified as part of the Annual Review in section 6.1, shall constitute an "Event of Default." In the event of default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice in writing, as specified in Section 12.1, specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such thirty (30) day period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings. The waiver by either Party of any default under this Agreement shall not operate as a waiver of any subsequent breach of the same or any other provision of this Development Agreement. Notwithstanding the foregoing, no building permit shall be issued or building permit application accepted for any structure on the Property if the permit applicant owns and controls any property subject to this Agreement, and if such applicant or entity or person controlling such applicant is in default of the terms of this Agreement.

8.2 Meet and Confer. During the time periods specified in Section 8.1 for cure of a failure of performance, the Parties shall meet and confer in a timely and responsive manner, to attempt to resolve any matters prior to litigation or other action being taken, including without limitation any action in law or equity; provided, however, nothing herein shall be construed to extend the time period for this meet and confer obligation beyond the thirty (30)-day cure period referred to in Section 8.1 (even if the thirty (30)-day cure period itself is extended pursuant to Section 8.1 unless the Parties agree otherwise in writing.

8.3 Remedies and Termination. If, after notice and expiration of the cure periods and procedures set forth in Sections 8.1 and 8.2, the alleged Event of Default is not cured, the non-defaulting Party, at its option, may institute legal proceedings pursuant to Section 8.4 of this Development Agreement and/or terminate this Development Agreement pursuant to Section 8.5 herein. In the event that this Development Agreement is terminated pursuant to Section 8.5 herein and litigation is instituted that results in a final decision that such termination was improper, then this Development Agreement shall immediately be reinstated as though it had never been terminated.

8.4 Legal Action by Parties.

8.4.1 Remedies. Either Party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto or to obtain any remedies consistent with the purpose of this Development Agreement. All legal actions shall be initiated in the Superior Court of the County of Placer, State of California, or in the Federal District Court in the Eastern District of California.

8.4.2 No Damages. In no event shall either Party, or its boards, commissions, officers, agents or employees, be liable in damages for any default under this Development Agreement, it being expressly understood and agreed that the sole legal remedy available to either Party for a breach or violation of this Development Agreement by the other Party shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Development Agreement by the other Party, or to terminate this Development Agreement. 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 Development Agreement by the other Party.

8.5 Effects of Litigation. If litigation is timely instituted, and a final judgment is obtained, which invalidates in its entirety this Development Agreement, then Developer shall have no obligations whatsoever under this Development Agreement. In the event that any payment(s) have been made by or on behalf of Developer to City pursuant to the obligations contained in Section 3.2, City shall give to Developer a refund of the monies remaining in any

segregated City account into which such payment(s) were deposited, if any, along with interest which has accrued, if any. To the extent the payment(s) made by or on behalf of Developer were not deposited, or no longer are, in the segregated City account, City shall give Developer a credit for the amount of said payment(s) as determined pursuant to this Section 8.5, along with interest, if any, that has accrued, which credit may be applied by Developer to any costs or fees imposed by City on Developer in connection with construction or development within or outside the Property. Developer shall be entitled to use all or any portion of the credit at its own discretion until such time as the credit has been depleted. Any credits due to Developer pursuant to this Section 8.5 may, at Developer's own discretion, be transferred by Developer to a third party for application by said third party to any costs or fees imposed by City on the third party in connection with construction or the development of property within City, whether or not related to the Project. In the event that Developer has already developed or is developing a portion of the Project at the time of any invalidation of the Development Agreement, then any such refund or credit shall be limited to the amount paid by Developer that exceeds, on a pro rata basis, the proportion and uses of the Property retained by Developer to the entire Property. This Section 8.5 shall survive the termination or expiration of this Development Agreement.

8.6 Termination.

8.6.1 Expiration of Term. Except as otherwise provided in this Development Agreement, this Development Agreement shall be deemed terminated and of no further effect upon the expiration of the Term of this Development Agreement as set forth in Section 1.3.

8.6.2 Survival of Obligations. Upon the termination or expiration of this Development Agreement as provided herein, neither Party shall have any further right or obligation with respect to the Property under this Development Agreement except with respect to any obligation that is specifically set forth as surviving the termination or expiration of this Development Agreement. The termination or expiration of this Development Agreement shall not affect the validity of the Project Approvals (other than this Development Agreement) for the Project.

8.6.3 Termination by City. Notwithstanding any other provision of this Agreement, City shall not have the right to terminate this Agreement with respect to all or any portion of the Property before the expiration of its Term unless City complies with all termination procedures set forth in the Development Agreement Legislation and there is an alleged Event of Default by Developer and such Event of Default is not cured pursuant to Article 6 herein or this Article 8. Compliance with the procedures set forth in Article 6 and Sections 8.1 through 8.3 and 8.6 shall be deemed full compliance with the requirements of the California Claims Act (Government Code Section 900 *et seq.*) including, but not limited to, the notice of an event of default hereunder constituting full compliance with the requirements of Government Code Section 910.

ARTICLE 9.
COOPERATION, IMPLEMENTATION, AND INDEMNITY

9.1 Further Actions and Instruments. Each Party to this Development Agreement shall cooperate with and provide reasonable assistance to the other Party and take all actions

necessary to ensure that the Parties receive the benefits of this Development Agreement, subject to satisfaction of the conditions of this Development Agreement. Upon the request of any Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Development Agreement to carry out the intent and to fulfill the provisions of this Development Agreement or to evidence or consummate the transactions contemplated by this Development Agreement.

9.2 Regulation by Other Public Agencies. Other public agencies not within the control of City may possess authority to regulate aspects of the development of the Property separately from or jointly with City, and this Development Agreement does not limit the authority of such other public agencies.

9.3 Other Governmental Permits and Approvals; Grants. Developer shall apply in a timely manner in accordance with Developer's construction schedule for the permits and approvals from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. Developer shall comply with all such permits, requirements, and approvals. City shall cooperate with Developer in its endeavors to obtain (a) such permits and approvals and shall, from time to time, at the request of Developer, attempt with due diligence and in good faith to enter into binding agreements with any such entity to ensure the availability of such permits and approvals, or services, at each stage of the development of the Project; and (b) any grants for the Project for which Developer applies, but City has no obligation to ensure Developer obtains any such permits, approvals, or grants.

9.4 Cooperation in the Event of Third-Party Legal Challenge.

9.4.1 Effect of Third-Party Litigation on the Project. The filing of any third-party lawsuit(s) against City or Developer relating to this Agreement, the Project Approvals or other development issues affecting the Property shall not delay or stop the development, processing or construction of the Project or approval of any Subsequent Approvals, unless the third party obtains a court order preventing the activity. City shall not stipulate to or cooperate in the issuance of any such order. Developer understands that if it decides to proceed with the Project during third-party litigation, it would be doing so at its own risk.

9.4.2 Defense Against Third-Party Challenges. In the event of any administrative, legal or equitable action instituted by a third party challenging the validity of any provision of this Development Agreement, the procedures leading to its adoption, or the Project Approvals for the Project, Developer shall defend such action (whether brought against Developer or City) at its own expense. Developer shall have the right, in its sole discretion, to elect whether or not to defend such action with its own counsel (and pay for such counsel at its own expense), and to control its participation and conduct in the litigation in all respects permitted by law. To the extent legally allowed, the Parties hereby agree to affirmatively cooperate in the defense of said action and to execute a joint defense and confidentiality agreement in order to share and protect information, under the joint defense privilege recognized under applicable law. As part of the cooperation in defending an action, City and Developer shall coordinate their defense to make the most efficient use of legal counsel and to share and

protect information. City retains the option to select and employ independent defense counsel at its own expense. The City shall not terminate its defense or settle any third-party litigation of Project Approvals without Developer's consent, which consent shall not be unreasonably withheld, conditioned, or delayed, and neither shall City proceed with third-party litigation if Developer chooses to settle.

9.4.3 Revision to Project. In the event of a court order issued as a result of a successful legal challenge, City shall, to the extent permitted by law or court order, in good faith seek to comply with the court order in such a manner as will maintain the integrity of the Project Approvals and avoid or minimize to the greatest extent possible (i) any impact to the development of the Project as provided for in, and contemplated by, the Vested Entitlements, or (ii) any conflict with the Vested Entitlements or frustration of the intent or purpose of the Vested Entitlements.

9.5 Indemnity. Developer and its successors-in-interest and assigns, hereby agrees to, and shall defend, indemnify, and hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any liability for damages arising from a challenge of the validity of any provision of this Development Agreement, the procedures leading to its adoption, or the Project Approvals for the Project, or claims for damage for personal injury, or bodily injury, including death, as well as from claims for property damage which may arise from the operations of Developer, or of Developer's contractors, subcontractors, agents, or employees under this Agreement, whether such operations be by Developer, or by any of Developer's contractors or subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for, Developer or Developer's contractors or subcontractors, unless such damage or claim arises from the sole negligence or willful misconduct of City. The foregoing indemnity obligation of Developer shall not apply to any liability for damage or claims for damage with respect to any damage to or use of any public improvements after the completion and acceptance thereof by City. In addition to the foregoing indemnity obligation, Developer agrees to and shall defend, indemnify and hold City, its elective and appointive boards, commissions, officers, agents and employees harmless from any suits or actions at law or in equity arising out of the execution, adoption or implementation of this Agreement, exclusive of any such actions brought by Developer, its successors-in-interests or assigns. City acknowledges hereby that the foregoing liability of Developer shall be limited to its interest in the Property and that neither Developer nor any of its partners, officers, shareholders, employees or agents shall have any personal liability therefor.

9.6 State, Federal or Case Law. Where any state, federal or case law allows City to exercise any discretion or take any act with respect to that law, City shall, in an expeditious and timely manner, at the earliest possible time, (a) exercise its discretion in such a way as to be consistent with, and carry out the terms of, this Agreement and (b) take such other actions as may be necessary to carry out in good faith the terms of this Agreement.

9.7 Defense of Agreement. City shall take all actions that are necessary or advisable to uphold the validity and enforceability of this Agreement. If this Agreement is adjudicated or determined to be invalid or unenforceable, City agrees, subject to all legal requirements, to consider modifications to this Agreement to render it valid and enforceable to the extent permitted by applicable law.

ARTICLE 10.
ASSIGNMENT

Developer shall have the full right to assign this Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Developer and assumption by the assignee of such assignment in the form attached hereto as Exhibit E and the conveyance of Developer's interest in the Property related thereto, Developer shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Developer," with all rights and obligations related thereto, with respect to such conveyed property. Landowner shall provide City with prompt notice and a copy of any assignment made under this Agreement.

Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.

ARTICLE 11.
MORTGAGEE AND INVESTOR LIMITED PARTNER PROTECTION; CERTAIN RIGHTS OF CURE

11.1 Mortgagee Protection. This Agreement shall not prevent or limit Developer in any manner, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property ("Mortgage"). This Development Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Development Agreement, including the lien of any Mortgage. Notwithstanding the foregoing, the ARHA or AHRA, as applicable, shall be subordinate to any Mortgage, Land Note, and CalFHA Subsidy, and no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage, Land Note, or CalFHA subsidy made in good faith and for value, but all of the terms and conditions contained in this Development Agreement shall be binding upon and effective against and inure to the benefit of any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

11.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 11.1 above, Mortgagee and Investor Limited Partner shall not have any obligation or duty under this Development Agreement to perform Developer's obligations or other affirmative covenants of Developer hereunder; provided, however, that neither a Mortgagee nor an Investor Limited Partner shall be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Development Agreement, or by the Project Approvals and Applicable Rules.

11.3 Notice of Default to Mortgagee and Investor Limited Partner; Right of Mortgagee to Cure. If City receives a notice from a Mortgagee or Investor Limited Partner requesting a

copy of any notice or demand given by the City to Developer as to any breach, default or noncompliance under this Agreement and specifying the address for service thereof, then City shall deliver to such Mortgagee or Investor Limited Partner, within ten (10) days of service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has committed any breach, default or noncompliance under this Agreement. Each of Mortgagee and Investor Limited Partner shall have the right (but not the obligation) during the greater of: (i) 90 days after receipt of the City's notice or (ii) such same period available to Developer to cure or remedy, or to commence to cure or remedy, the Event of Default claimed or the areas of noncompliance set forth in City's notice. If such default shall be a default which can only be remedied or cured by such Mortgagee upon obtaining possession of the Property, then Mortgagee shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within 90 days after obtaining possession; provided, however, that in the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced within such 90-day period, such Mortgagee shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity; and provided further that such Mortgagee shall not be required to remedy or cure any non-curable default of Developer. Any Mortgagee who forecloses on its Mortgage, or is assigned or otherwise succeeds to Developer's rights under this Agreement, shall have the right to undertake or continue the construction or completion of the Project, subject to the terms of this Development Agreement.

11.4 No Supersedure. Nothing in this Article 11 shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligations under any subdivision improvement agreement or other obligation incurred with respect to the Project outside this Development Agreement, nor shall any provision of this Article 11 constitute an obligation of City to such Mortgagee, except as to the notice requirements of Section 11.3.

11.5 Technical Amendments to this Article 11. City agrees to reasonably consider and approve interpretations and/or technical amendments to the provisions of this Agreement that are required by lenders for the acquisition and construction of the improvements on the Property or any refinancing thereof and to otherwise cooperate in good faith to facilitate Developer's negotiations with lenders.

ARTICLE 12.
MISCELLANEOUS PROVISIONS

12.1 Limitation on Liability. Notwithstanding anything to the contrary contained in this Development Agreement, in no event shall: (a) any partner, officer, director, member, shareholder, employee, affiliate, manager, representative, or agent of Developer or any general partner of Developer or its general partners be personally liable for any breach of this Development Agreement by Developer, or for any amount which may become due to City under the terms of this Development Agreement; or (b) any member, officer, agent or employee of City be personally liable for any breach of this Development Agreement by City or for any amount which may become due to Developer under the terms of this Development Agreement.

12.2 Force Majeure. The Term of this Development Agreement and the Project Approvals and the time within which Developer shall be required to perform any act under this

Development Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed unavoidably and beyond the reasonable control of the Party seeking the delay by strikes, lock-outs and other labor difficulties, Acts of God, inclement weather, failure or inability to secure materials or labor by reason of priority or similar regulations or order of any governmental or regulatory body, changes in local, state or federal laws or regulations, any development moratorium or any action of other public agencies that regulate land use, development or the provision of services prevents, prohibits or delays construction of the Project, pandemic, enemy action, civil disturbances, wars, terrorist acts, fire, unavoidable casualties, litigation involving this Agreement or the Project Approvals, or any other cause beyond the reasonable control of Developer which substantially interferes with carrying out the development of the Project. Such extension(s) of time shall not constitute an Event of Default and shall occur at the request of any Party. In addition, the Term of this Development Agreement and any subdivision map or any of the other Project Approvals shall not include any period of time during which (i) a development moratorium is in effect; (ii) the actions of public agencies that regulate land use, development or the provision of services to the Property prevent or delay the construction, funding or development of the Project (excluding processing of discretionary approvals) or (iii) there is any mediation, arbitration; litigation or other administrative or judicial proceeding pending involving the Vested Entitlements, or Project Approvals.

12.3 Notices, Demands and Communications Between the Parties. Formal written notices, demands, correspondence and communications between City and Developer shall be sufficiently given if delivered personally (including delivery by private courier), dispatched by certified mail, postage prepaid and return receipt requested, or delivered by nationally recognized overnight courier service, or by electronic mail followed by delivery of a "hard" copy, received within 5 days of such electronic mail, to the offices of City and Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as either Party may from time-to-time designate in writing at least fifteen (15) days prior to the name and/or address change and as provided in this Section.

City: City of Roseville
311 Vernon Street
Roseville, California 95678
Attention: Planning Manager
Email: planningdivision@roseville.ca.us

with copies to: City of Roseville
311 Vernon Street
Roseville, California 95678
Attention: City Attorney
Email: attorney@roseville.ca.us

Developer	Shea Properties 130 Vantis, Suite 200 Aliso Viejo, California 92656 Attention: General Counsel Email: Julie.Guizan@JFShea.com
with copies to:	Cox, Castle & Nicholson, LLP 50 California Street, Suite 3200 San Francisco, California 94111 Attention: Linda C. Klein Email: lklein@coxcastle.com

Notices personally delivered shall be deemed to have been received upon delivery. Notices delivered by certified mail, as provided above, shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addresses designated above as the Party to whom notices are to be sent, or (ii) within five (5) days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Notices delivered by overnight courier service as provided above shall be deemed to have been received twenty-four (24) hours after the date of deposit. Notices delivered by electronic mail shall be deemed received upon receipt of sender of electronic confirmation of delivery, provided that a "hard" copy is delivered as provided above.

12.4 Project as a Private Undertaking; No Joint Venture or Partnership. The Project constitutes private development, neither City nor Developer is acting as the agent of the other in any respect hereunder, and City and Developer are independent entities with respect to the terms and conditions of this Agreement. Nothing contained in this Development Agreement or in any document executed in connection with this Development Agreement shall be construed as making City and Developer joint venturers or partners.

12.5 Non-Intended Prevailing Wage Requirements. Nothing in this Development Agreement is intended in any way require, or be construed to require, Developer to pay prevailing wages with respect to any work of construction or improvement within the Project (a "Non-Intended Prevailing Wage Requirement"). But for the understanding of the parties as reflected in the immediately preceding sentence, the parties would not have entered into this Development Agreement based upon the terms and conditions set forth herein. Developer and City have made every effort in reaching this Development Agreement to ensure that its terms and conditions will not result in a Non-Intended Prevailing Wage Requirement. The City, however, has no control over whether a provision in this Agreement shall trigger prevailing wages. If any provision of this Development Agreement shall be determined by any the California Department of Industrial Relations or court of competent jurisdiction to result in a Non-Intended Prevailing Wage Requirement, such determination shall not invalidate or render unenforceable any provision hereof; provided, however, that the Parties hereby agree that, in such event, this Agreement shall be reformed such that each provision of this Development Agreement that results in the Non-Intended Prevailing Wage Requirement will be removed from this Development Agreement as though such provisions were never a part of the Development Agreement, and, in lieu of such provision(s), replacement provisions shall be added as a part of

this Development Agreement as similar in terms to such removed provision(s) as may be possible and legal, valid and enforceable but without resulting in the Non-Intended Prevailing Wage Requirement.

12.6 Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a party hereto of an essential benefit of its bargain hereunder, then such party so deprived shall have the option to terminate this entire Agreement from and after such determination.

12.7 Section Headings. Article and Section headings in this Development Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Development Agreement.

12.8 Construction of Agreement. This Development Agreement has been reviewed and revised by legal counsel for both Developer and City, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Development Agreement. Subject to Article 2, this Development Agreement shall be subject to and construed in accordance and harmony with the City Municipal Code, as it may be amended, provided that such amendments do not affect the rights granted to the Parties by this Development Agreement.

12.9 Further Assurances. Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out this Development Agreement in order to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

12.10 Entire Agreement. This Development Agreement is executed in ____ (__) duplicate originals, each of which is deemed to be an original. This Development Agreement consists of_____ (__) pages including the Recitals, and ____ (__) exhibits, attached hereto and incorporated by reference herein, which, together with the Project Approvals, constitute the entire understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. The exhibits are as follows:

Exhibit A	Legal Description of the Property
Exhibit B	Map of the Property
Exhibit C	Public Benefits
Exhibit D	Trail Improvements
Exhibit E	Assignment Form
Exhibit F	Affordable Housing Regulatory Agreement for Affordable Project
Exhibit G	Affordable Rental Housing Agreement for Self-Financed Project

12.11 Estoppel Certificates. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (i) this Development Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Development Agreement has not been amended or modified either orally or in writing, or if amended; identifying the amendments, (iii) the requesting Party is not in default in the performance of its obligations under this Development Agreement, or if in default, to describe therein the nature and amount of any such defaults, and (iv) any other information reasonably requested. The party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. City acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees of Developer. The failure of either Party to provide the requested certificate within such thirty (30) day period shall constitute a confirmation that this Agreement is in full force and effect and no modification or default exists.

12.12 Recordation. Pursuant to California Government Code Section 65868.5, within ten (10) days after the later of execution of the Parties of this Development Agreement or the Effective Date, the City shall record this Development Agreement with the Placer County Recorder. Thereafter, if this Development Agreement is terminated, modified or amended, the City shall record notice of such action with the Placer County Recorder.

12.13 No Waiver. No delay or omission by either Party in exercising any right or power accruing upon noncompliance or failure to perform by the other Party under any of the provisions of this Development Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party of any of the covenants or conditions to be performed by the other Party shall be in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought, and any such waiver shall not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

12.14 Time Is of the Essence. Time is of the essence for each provision of this Development Agreement for which time is an element.

12.15 Applicable Law. This Development Agreement shall be construed and enforced in accordance with the laws of the State of California.

12.16 Attorneys' Fees. Should any legal action be brought by either Party because of a breach of this Development Agreement or to enforce any provision of this Development Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and such other costs as may be found by the court.

12.17 Third Party Beneficiaries. Except as otherwise provided herein, including but not limited to rights of Mortgagees and the Investor Limited Partner, City and Developer hereby renounce the existence of any third-party beneficiary to this Development Agreement and agree that nothing contained herein shall be construed as giving any other person or entity third party beneficiary status.

12.18 Constructive Notice and Acceptance. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Development Agreement is contained in the instrument by which such person acquired an interest in the Property.

12.19 Counterparts. This Development Agreement may be executed by each Party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

12.20 Authority. The persons signing below represent and warrant that they have the authority to bind their respective Party and that all necessary board of directors', shareholders', partners', city councils', redevelopment agencies' or other approvals have been obtained.

IN WITNESS WHEREOF, City and Developer have executed this Development Agreement as of the date first set forth above.

DEVELOPER:

_____, a _____
_____

By:_____
Name:_____
Title:_____

CITY:

CITY OF _____, a California municipal corporation

By:_____
Name:_____
Title:_____

ATTESTATION:

By: _____, City Clerk

APPROVED AS TO FORM:

By: _____, City Attorney

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On __ _____, 20__ before me, _____ (here insert name of the officer), Notary Public, 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 of Notary Public

[Seal]

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On __ _____, 20__ before me, _____ (here insert name of the officer), Notary Public, 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 of Notary Public

[Seal]

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

For APN/Parcel ID(s): 363-011-002-000, 363-011-003-000, 363-011-004-000, 363-011-005-000 and 363-011-007-000

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ROSEVILLE, COUNTY OF PLACER, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Parcel One:

Parcels 1,2,3,4 and 6, as shown on the Parcel Map entitled "Shea Center Roseville" Subdivision NO SUBD.00-06, being a portion of Sections 23 and 26 of Township 11 North, Range 6 East, M.D.B. & M. and also being a portion of Lot #42 “Highland Reserve Phase VIII” recorded in Book “U” of Maps at Page 50, Official Records of the County of Placer, filed September 15, 2004, in Book 32 of Parcel Maps, Page 12, in Office of the County Recorder of Placer County, California.

EXCEPTING THEREFROM all oil, gas, minerals, hydrocarbon and kindred substances lying below a depth of 500 feet from the surface of said land, as reserved in the Deeds recorded July 24, 1972 in Book 1432, Page 305, and May 5, 1982 in Book 2497, Page 696, Official Records.

Parcel Two:

An easement for ingress and egress as defined in that certain document entitled “Declaration of Covenants, Conditions and Restrictions,” Recorded September 15, 2004-0122226, Placer County Official Records.

EXHIBIT B

MAP OF PROPERTY

EXHIBIT C

PUBLIC BENEFITS

All terms not defined herein shall have the meaning ascribed to them in the Development Agreement to which this Exhibit C is attached to and a part thereof.

City has determined that the Project presents certain public benefits and opportunities that are advanced by City and Developer entering into this Agreement. This Agreement will, among other things:

1. reduce uncertainties in planning and provide for the orderly development of the Project;

2. mitigate many significant environmental impacts;

5. provide for and generate substantial revenues for the City in the form of one time and annual fees and exactions, increased property and sales tax and other fiscal benefits;

6. provide needed housing, including affordable housing;

7. result in the construction of a proposed trail, as envisioned by the 2008 Bicycle Master Plan and North Central Roseville Specific Plan; and

8. otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.