DISPOSITION AND DEVELOPMENT AGREEMENT

By and Between

CITY OF BLUE LAKE
a municipal corporation of the State of California

and

DANCO COMMUNITIES
a California corporation

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DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT ("**Agreement**") is entered into as of June 28, 2022 by and between the CITY OF BLUE LAKE, a municipal corporation of the State of California (the "**City**") and DANCO COMMUNITIES, a California corporation (the "**Developer**"). The City and the Developer agree as follows:

I. [§100] SUBJECT OF AGREEMENT

A. [§101] Purpose of This Agreement

The City of Blue Lake (the "**City**") is the owner of that certain real property (the "**Site**") as more particularly described in Section 102 below. Consistent with the City's General Plan, the City desires to convey a leasehold interest in the Site for the purpose of creating a mixed-use development that would include approximately 40 multifamily rental housing units, 39 of which are for families and/or seniors earning no more than sixty percent (60%) of the Area Median Income for Humboldt County and approximately 20,000 square feet of light industrial and/or retail space within the City's boundaries, as more fully described in Section 402, below.

The development of the Site pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City, and the health, safety, morals and welfare of its residents and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

B. [§102] The Site

The Site will consist of approximately three (3) acres of land that is a portion of the parcels designated as Assessor's Parcel Numbers 312-161-018 and 312-161-015 as shown on the "**Map of the Site**" (Attachment No. 1). Prior to conveyance of the Site, the parties shall prepare a legal description for the exact dimensions of the Site.

C. [§103] Parties to This Agreement

1. [§104] The City

The City is a municipal corporation of the State of California. The office of the City is located at 111 Greenwood Road, Blue Lake, CA 95525-0458. "**City**," as used in this Agreement, includes the City and any assignee of or successor to its rights, powers and responsibilities.

2. [§105] The Developer

The Developer is DANCO COMMUNITIES, a California corporation. The principal office of the Developer is located at 5251 Ericson Way, Arcata, California 95521. Wherever the term "**Developer**" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided.

The qualifications and identity of the Developer are of particular concern to the City, and it is because of such qualifications and identity that the City has entered into this Agreement with the Developer. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein. This Agreement may be terminated by the City pursuant to Section 611 hereof if there is any significant change (voluntary or involuntary) in the composition, management or control of the Developer without the prior written approval of the City.

The Developer may assign or transfer its interest in or obligations under this Agreement, without the City's prior written approval, to a limited partnership or other entity ("**Affiliate**") created and controlled by the Developer for purposes of developing, owning and operating the Project; provided that Developer shall notify the City in writing prior to any such assignment or transfer; and provided, further, that such assignee or transferee shall assume all of Developer's interest in and obligations under this Agreement, pursuant to a written assignment and assumption agreement, in such form and content as is reasonably satisfactory to the City.

Except as specifically authorized by this Agreement, the Developer shall not assign all or any part of this Agreement without the prior written approval of the City.

D. [§106] Deposit

Prior to or concurrently with the execution of this Agreement, the Developer has or shall deposit with the City the amount of Fifteen Thousand Dollars ($15,000) (the "**Deposit**"). The Deposit shall be credited toward Reimbursable Costs (as defined herein). the Developer shall reimburse the City for the City's actual third-party out-of-pocket costs and expenses incurred by the City directly related to (a) City's costs of preparing the Property for disposition, including but not limited to complying with the Surplus Lands Act, (b) negotiating and preparing this Agreement and (c) processing Developer's application for development entitlements for the Project, including but not limited to all planning and engineering work for the Project (collectively, "**City Reimbursable Costs**"). "City Reimbursable Costs" does not include City's normal permit or processing fees charged to developers, which shall be paid by Developer in addition to the Reimbursable Costs. The total amount of City Reimbursable Costs to be paid by Developer is estimated to be Fifteen Thousand Dollars ($15,000) (the "**City Reimbursable Costs Budget**"). The City shall have the right to revise the City Reimbursable Costs Budget, from time to time, as necessary, to add unanticipated new expenditures and increases in budgeted Reimbursable Costs expenditures reasonably projected to be incurred by the City provided, however, in no event shall the total amount of Reimbursable Costs set forth in the Reimbursable Costs Budget increase by more than Ten Thousand Dollars ($10,000) without the prior consent of the Developer. In the event that any funds remain from the Deposit after the City has incurred all third-party out-of-pocket costs and expenses described herein, such remaining funds shall be returned to Developer at Close of Escrow

E. [§107] Developer Costs

The City acknowledges that the Developer will expend significant funds and incur obligations in connection with the development of the Project. The Developer shall use

good faith commercially reasonable best efforts to obtain the Project Entitlements (as defined in Section 211 hereof). However, in the event that the Project Entitlements are not approved by the City based on a subjective, discretionary determination by the City, the City shall reimburse the Developer for its actual third-party out-of-pocket costs and expenses incurred by the Developer directly related to the development and entitlement of the Project in an amount not to exceed Two Hundred Thousand Dollars ($200,000) (collectively, "**Developer Reimbursable Costs**"). "Developer Reimbursable Costs" do not include Developer's overhead or staff costs. Reimbursement of Developer Reimbursable Costs by the City shall be subject to receipt by the City of evidence of payment of such costs acceptable to the City. Developer shall not be entitled to seek Developer's Reimbursable Costs from the City in the event the Project Entitlements are not approved or otherwise cannot be constructed due reasons other than a City discretionary determination including, without limitation: (i) latent or patent real property conditions or defects rendering the Site unsuitable such as environmental, geotechnical, seismic or similar constraints; (ii) a determination by a court of competent jurisdiction that the Project Entitlements are not subject to approval under or otherwise violate the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000, et seq.); or (iii) Developer's failure to seek Project Entitlements substantially in conformance with the development criteria for the "Project", as defined in Sections 400 through 405, below

II. [§200] DISPOSITION OF THE SITE

A. [§201] Ground Lease of Property

In accordance with and subject to all the terms, covenants and conditions of this Agreement, City agrees to ground lease to Developer, and the Developer agrees to ground lease from City the Site pursuant to the "**Ground Lease,**" the form of which is attached hereto as Attachment No. 5 and incorporated herein by this reference.

Conveyance of the Site pursuant to the Ground lease shall be made through Escrow. The Developer and City shall both execute and deliver into escrow the Ground Lease in substantially the form attached hereto, provided, however, the City agrees to cooperate with the Developer, and the City Manager shall have the authority, to approve any reasonable modifications to the terms of the Ground Lease that may be required by the terms of any Tax Credit Financing or other funding sources secured by the Developer for the Project as referenced in Section 301 of this Agreement. Developer and City shall further execute and deliver into escrow a "**Memorandum of Ground Lease**" in the form attached hereto as Attachment No. 6 and incorporated herein by this reference.

The Developer acknowledges and understands that the Site will be ground leased to the Developer for purposes of development pursuant to this Agreement and not for speculation in undeveloped land.

B. [§202] Escrow

The City agrees to open an escrow with Commonwealth Land Title Company, or any other escrow company approved by the City and the Developer, as escrow agent (the "**Escrow Agent**"), in or serving Blue Lake, California, within the time established in the Schedule of

Performance (Attachment No. 3). This Agreement constitutes the joint escrow instructions of the City and the Developer, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of escrow. The City and the Developer shall provide such additional escrow instructions as shall be necessary and consistent with this Agreement. The Escrow Agent hereby is empowered to act under this Agreement and, upon indicating its acceptance of the provisions of this Section 202 in writing, delivered to the City and to the Developer within five (5) days after the opening of the escrow, shall carry out its duties as Escrow Agent hereunder.

The Developer shall each execute and deposit with the Escrow Agent the Ground Lease for the Site and the Memorandum of Ground Lease in accordance with the provisions of Section 206 of this Agreement.

The Developer shall be responsible for payment of all escrow fees, charges and closing costs for the conveyance of the Site to the Developer, except those costs to be paid by City as specifically set forth below. Developer shall pay in escrow to the Escrow Agent all such fees, charges and costs promptly after the Escrow Agent has notified the Developer of the amount of such fees, charges and costs, but not earlier than ten (10) days prior to the scheduled date for the close of escrow.

The City shall pay in escrow to the Escrow Agent the following costs promptly after the Escrow Agent has notified the City of the amount of such costs, if any, but not earlier than ten (10) days prior to the scheduled date for the close of escrow:

1. Costs necessary to place the title to the Site in the condition for conveyance of the leasehold interest required by the provisions of this Agreement; and

2. Ad valorem taxes, if any, upon the Site for any time prior to conveyance of title.

Upon delivery of the Ground Lease and Memorandum of Ground Lease to the Escrow Agent by the City pursuant to Section 205 of this Agreement, the Escrow Agent shall record the Memorandum of Ground Lease in accordance with the terms and provisions of this Agreement. The Escrow Agent shall buy, affix and cancel any transfer stamps required by law and pay any transfer tax required by law. Any insurance policies governing the Site are not to be transferred.

The Escrow Agent is authorized to:

1. Pay and charge the City and the Developer, respectively, for any fees, charges and costs payable under this Section 202. Before such payments are made, the Escrow Agent shall notify the City and the Developer of the fees, charges and costs necessary to clear title and close the escrow;

2. Disburse funds and deliver the ground lease and other documents to the parties entitled thereto when the conditions of this escrow have been fulfilled by the City and the Developer; and

3. Record any instruments delivered through this escrow, if necessary or proper, to vest title in the Developer in accordance with the terms and provisions of this Agreement.

All funds received in this escrow shall be deposited by the Escrow Agent with other escrow funds of the Escrow Agent in a general escrow account or accounts with any state or national bank doing business in the State of California. Such funds may be transferred to any other such general escrow account or accounts. All disbursements shall be made by check of the Escrow Agent. All adjustments shall be made on the basis of a thirty (30) day month.

If this escrow is not in condition to close before the time for conveyance established in Section 203 of this Agreement, either party who then shall have fully performed the acts to be performed before the conveyance of title may, in writing, terminate this Agreement in the manner set forth in Section 610 or 611 hereof, as the case may be, and demand the return of its money, papers or documents. Thereupon all obligations and liabilities of the parties under this Agreement shall cease and terminate in the manner set forth in Section 610 or 611 hereof, as the case may be. If neither the City nor the Developer shall have fully performed the acts to be performed before the time for conveyance established in Section 203, no termination or demand for return shall be recognized until ten (10) days after the Escrow Agent shall have mailed copies of such demand to the other party or parties at the address of its or their principal place or places of business. If any objections are raised within the ten (10) day period, the Escrow Agent is authorized to hold all money, papers and documents with respect to the Site until instructed in writing by both the City and the Developer or upon failure thereof by a court of competent jurisdiction. If no such demands are made, the escrow shall be closed as soon as possible. Nothing in this Section 202 shall be construed to impair or affect the rights or obligations of the City or the Developer to specific performance.

Any amendment of these escrow instructions shall be in writing and signed by both the City and the Developer. At the time of any amendment, the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

All communications from the Escrow Agent to the City or the Developer shall be directed to the addresses and in the manner established in Section 701 of this Agreement for notices, demands and communications between the City and the Developer.

The liability of the Escrow Agent under this Agreement is limited to performance of the obligations imposed upon it under Sections 202 to 207, both inclusive, of this Agreement.

Neither the City nor the Developer shall be liable for any real estate commissions or brokerage fees that may arise herefrom. The City and the Developer each represent that neither has engaged any broker, agent or finder in connection with this transaction.

C. [§203] Conveyance of Leasehold Interest and Delivery of Possession

Provided that the Developer is not in default under this Agreement and all conditions precedent to such conveyance have occurred, and subject to any mutually agreed upon extensions of time, conveyance to the Developer of the leasehold interest to the Site shall be completed on or prior to December 31, 2024. The City and the Developer agree to perform all acts necessary to conveyance of title in sufficient time for title to be conveyed in accordance with the foregoing provisions. The date set forth in this Section 203 for conveyance of title of the Site to the Developer may be extended by mutual agreement of the parties, to the extent the parties agree that any such extension is reasonable and necessary for the parties to complete all actions necessary to effectuate such conveyance in accordance with the other terms and conditions set forth in this Agreement. The City Manager shall have the authority to authorize any such extension on behalf of the City.

Possession shall be delivered to the Developer concurrently with the conveyance of the leasehold interest, except that limited access may be permitted before conveyance of title as permitted in Section 212 of this Agreement. The Developer shall accept the leasehold interest and possession on or before said date.

D. [§204] Condition of Title

Within the times set forth in the Schedule of Performance (Attachment No. 3), the City shall submit a Preliminary Title Report for the Site to the Developer for approval. Developer shall approve or disapprove the Preliminary Title Report within thirty (30) days from the time of receipt. Failure by the Developer to either approve or disapprove the conditions of title within such time shall be deemed an approval. If the condition of title is not acceptable to Developer, the City shall have thirty (30) days to eliminate exceptions to title or covenant to do so as a condition to Close of Escrow. If City is unable to eliminate exceptions to title, Developer may either terminate this Agreement pursuant to Section 610, or accept the conditions of title.

The City shall convey to the Developer a leasehold interest to the Site free and clear of all recorded liens, encumbrances, assessments, leases and taxes except as are consistent with this Agreement and as approved by the Developer pursuant to this Section 204.

E. [§205] Time for and Place of Delivery of Ground Lease, Memorandum of Ground Lease

Subject to any mutually agreed upon extensions of time, the City and the Developer shall both deposit the executed Ground Lease and Memorandum of Ground Lease, (provided for under Section 201) and additional instructions relating to the Site with the Escrow Agent on or before the date established for the conveyance of the Site in the Schedule of Performance (Attachment No. 3).

F. [§206] Recordation of Memorandum of Ground Lease

Upon the close of escrow, the Escrow Agent shall file the Memorandum of Ground Lease for recordation among the land records in the Office of the County Recorder of Humboldt

County, and shall deliver to the Developer the title insurance policy insuring leasehold title and the priority of liens in conformity with Section 207 of this Agreement.

G. [§207] Title Insurance

Concurrently with recordation of the grant deed, Commonwealth Land Title Company, or some other title insurance company satisfactory to the Developer having equal or greater financial responsibility ("**Title Company**"), shall provide and deliver to the Developer an ALTA leasehold owner's title insurance policy issued by the Title Company insuring that leasehold title to the Site is vested in the Developer in the condition required by Section 204 of this Agreement.

The Developer shall pay for all premiums for title insurance coverage or special endorsements.

Concurrently with the recording of the Memorandum of Ground Lease against the Site, the Title Company shall, if requested by the Developer, provide the Developer with an endorsement to insure the amount of the Developer's estimated development costs of the improvements to be constructed upon the Site. The Developer shall pay the entire premium for any such increase in coverage requested by it.

H. [§208] Taxes and Assessments

Ad valorem taxes and assessments, if any, on the Site, and taxes upon this Agreement or any rights hereunder, levied, assessed or imposed for any period commencing prior to conveyance of leasehold title shall be borne by the City. All such ad valorem taxes and assessments, including but not limited to possessory interest taxes, levied or imposed for any period commencing after closing of the escrow shall be paid by the Developer.

I. [§209] Conveyance Free of Possession

Except as otherwise provided in the Scope of Development (Attachment No. 4), the leasehold interest to the Site shall be conveyed free of any possession or right of possession by any person except that of the Developer and the easements of record.

J. [§210] Zoning of the Site

The Site is currently designated by the General Plan as Mixed Use, and is zoned as Opportunity Zone, which is primarily intended for commercial and manufacturing uses with residential dwellings located above or behind the primary commercial or manufacturing uses to promote a live-work type environment. Developer, at its sole cost and expense, shall use its best efforts to obtain, prior to the time of conveyance and through the City's normal approval process, approval of entitlements necessary to permit the development and construction of the Project in accordance with the provisions of this Agreement and the use, operation and maintenance of such improvements on the Site ("Project Entitlements"). If Developer is unable to obtain such entitlements or the conditions to such entitlements make the proposed Project infeasible (including the obligation to make public improvements in accordance with Section 402.c hereof), then the

Developer shall have the option to terminate this Agreement pursuant to the provisions of Section 610.

K. [§211] Inspections; Condition of the Site

1. Inspections. Within the time established in the Schedule of Performance (Attachment No. 3), the Developer shall conduct its own investigation of the Site (or portion thereof being conveyed), its physical condition, the soils and toxic conditions of the Site and all other matters which in the Developer's judgment affect or influence the Developer's proposed use of the Site and the Developer's willingness to develop the Site pursuant to this Agreement. The Developer's investigation may include, without limitation, the preparation by a duly licensed soils engineer of a soils report and environmental report for the Site. Within the time set forth in the Schedule of Performance (Attachment No. 3), the Developer shall provide written notice to the City of the Developer's determinations concerning the suitability of the physical condition of the Site. If, in the Developer's reasonable judgment, the physical condition of the Site is unsuitable for the use or uses to which the Site will be put, then the Developer shall have the option either: to (a) take any action necessary to place the Site in a condition suitable for development, at no cost to the City; or (b) terminate this Agreement pursuant to the provisions of Section 610. If the Developer has not notified the City of its determinations concerning the suitability of the physical condition of the Site within the time set forth in the Schedule of Performance (Attachment No. 3), the Developer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section.

2. "As Is." The City shall deliver to the Developer all information of which it has actual knowledge concerning the physical condition of the Site, including, without limitation, information about any Hazardous Materials, as defined below. The Developer acknowledges and agrees that any portion of the Site that it acquires from the City pursuant to this Agreement shall be purchased "as is," in its current physical condition, with no warranties, express or implied, as to the physical condition thereof, the presence or absence of any latent or patent condition thereon or therein, including, without limitation, any Hazardous Materials thereon or therein, and any other matters affecting the Site.

3. Indemnity. The Developer agrees, from and after the date of execution of the Ground Lease conveying leasehold title to the Site from the City to the Developer under this Agreement, to defend, indemnify, protect and hold harmless the City and its officers,

beneficiaries, employees, agents, attorneys, representatives, legal successors and assigns ("**Indemnities**") from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions (as defined herein), claims, losses, damages, fines, penalties, expenses, Environmental Response Costs (as defined herein) or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys' fees and experts' and consultants' fees), ("**Damages**") whenever arising, resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials (as defined herein), at, on, in, beneath or from the Site (sometimes herein collectively referred to as "**Contamination**"), except if such Damages result from the willful misconduct, gross negligence, fraud, misrepresentation or failure to disclose by the Indemnities. The Developer's defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim or demand regarding the Contamination, at the Developer's sole cost.

4. Release and Waiver. The Developer hereby releases and waives all rights, causes of action and claims the Developer has or may have in the future against the Indemnities arising out of or in connection with any Hazardous Materials (as defined herein), at, on, in, beneath or from the Site, except if such cause of action arises from the fraud or misrepresentation or failure to disclose by the City. In furtherance of the intentions set forth herein, the Developer acknowledges that it is familiar with Section 1542 of the Civil Code of the State of California which provides as follows:

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

The Developer hereby waives and relinquishes any right or benefit which it has or may have under Section 1542 of the Civil Code of the State of California or any similar provision of the statutory or nonstatutory law of any other applicable jurisdiction to the full extent that it may lawfully waive all such rights and benefits pertaining to the subject matter of this Section 211.

5. Definitions.

a. As used in this Agreement, the term "**Environmental Response Actions**" means any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, state or federal governmental or private party claims, including any claims by the Developer.

b. As used in this Agreement, the term "**Environmental Response Costs**" means any and all costs associated with Environmental Response Actions including, without limitation, any and all fines, penalties and damages.

c. As used in this Agreement, the term "**Hazardous Materials**" means any substance, material or waste that is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California law; (2) petroleum; (3) asbestos; (4) poly-chlorinated biphenyls; (5) radioactive materials; (6) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 *et seq*. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317); (7) defined as a "hazardous substance" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq*. (42 U.S.C. Section 6903) or its implementing regulations; (8) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 *et seq*. (42 U.S.C. Section 9601); or (9) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

6. Materiality. The Developer acknowledges and agrees that the defense, indemnification, protection and hold harmless obligations of the Developer for the benefit of the City set forth in this Agreement are a material element of the consideration to the City for the performance of its obligations under this Agreement, and that

the City would not have entered this Agreement unless the Developer's obligations were as provided for herein.

L. [§212] Preliminary Work by the Developer

Prior to the conveyance of leasehold title from the City, representatives of the Developer shall have the right of access to the Site at all reasonable times for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement. The Developer shall hold the City harmless from any injury or damages arising out of any activity pursuant to this section. The Developer shall have access to all data and information on the Site available to the City, but without warranty or representation by the City as to the completeness, correctness or validity of such data and information.

Any preliminary work undertaken on the Site by the Developer prior to conveyance of title thereto shall be done only after written consent of the City and at the sole expense of the Developer. The Developer shall save and protect the City against any claims resulting from such preliminary work, access or use of the Site. Copies of data, surveys and tests obtained or made by the Developer on the Site shall be filed with the City. Any preliminary work by the Developer shall be undertaken only after securing any necessary permits from the appropriate governmental agencies.

M. [§213] Evidence of Financing

As set forth in Section 301, below, the Developer intends to apply for and secure tax credit financing and other commitments for financing for development of the Site. No later than the time specified in the Schedule of Performance (Attachment No. 3), the Developer shall submit to the City evidence satisfactory to the City that the Developer has any required equity capital and conditional commitments for construction financing necessary for development of the Site, subject to such conditions as are normally and reasonably imposed in connection with such financing commitments.

N. [§214] Conditions of Closing

The close of escrow (the "**Close of Escrow**") is conditioned upon the satisfaction of the following terms and conditions within the times designated below:

1. City Conditions to Close of Escrow. City's obligation to proceed with the Close of Escrow and convey the leasehold interest in the Site is subject to the fulfillment or waiver by City of each and all of the conditions precedent a. through f., inclusive, described below ("**City's Conditions Precedent**"), which are solely for the benefit of City, and which shall be fulfilled or waived by the time period provided herein:

a. No Default. Before the Close of Escrow, Developer shall not be in default of any of its obligations under the terms of this Agreement and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

b. Execution of Documents. The Developer shall have executed the Ground Lease, Memorandum of Ground Lease and any other documents required hereunder and delivered into Escrow.

c. Payment of Funds. Before the Close of Escrow, Developer shall have paid all required costs into Escrow in accordance with Section 202, hereof.

d. Land Use Approvals. The Developer shall have received approval of all permits that may be required by the City or any governmental agency pursuant to Section 409, hereof.

e. Insurance. The Developer shall have provided proof of insurance as required by Section 408, hereof.

f. Financing. As set forth in Section 301, hereof, Developer shall have obtained the necessary Tax Credit Financing and any other financing required for the Project.

2. Developer's Conditions to Close of Escrow. Developer's obligation to proceed with the lease of the Site is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent a. through g., inclusive, described below ("**Developer's Conditions Precedent**"), which are solely for the benefit of Developer, and which shall be fulfilled or waived by the time periods provided for herein:

a. No Default. Before the Close of Escrow, City shall not be in default of any of its obligations under the terms of this Agreement and all representations and warranties of the City contained herein shall be true and correct in all material respects.

b. Execution of Documents. The City shall have executed the grant deed and any other documents required hereunder, and delivered such documents in Escrow.

c. Review and Approval of Title. Developer shall have reviewed and approved the condition of title of the Site, as provided in Section 203, hereof.

d. Review and Approval of Soils Conditions of Site. Developer shall have reviewed and approved the soils condition of the Site.

e. Title Policy. The Title Company shall, upon payment of the Title Company's regularly scheduled premium, have agreed to provide to the Developer the title policy for the Site upon the Close of Escrow, in accordance with Section 208, hereof.

f. Land Use Approvals. The Developer shall have received approval of all permits that may be required by the City or any governmental agency pursuant to Section 409, hereof.

g. Financing. The Developer shall have obtained the Tax Credit Financing and other financing necessary for the Project, as set forth in Section 301, hereof.

O. [§215] Representations and Warranties

1. City Representations. City represents and warrants to Developer as follows:

a. Authority. City is a municipal corporation of the State of California. City has full right, power and lawful authority to grant, sell and convey the leasehold interest in the Site as provided herein, and the execution, performance and delivery of this Agreement by City has been fully authorized by all requisite actions on the part of the City.

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

c. Litigation. There are no claims, causes of action or other litigation or proceedings pending or, to the best knowledge of the City, threatened with respect to the ownership, operation or environmental condition of the Site or any part thereof (including disputes with mortgagees, governmental authorities, utility companies, contractors, adjoining landowners or suppliers of goods and services).

2. Developer's Representations. The Developer represents and warrants to City as follows:

a. Authority. Developer is a duly organized California corporation authorized to do business within the State of California. The copies of the documents evidencing the organization of the Developer which have been delivered to the City are true and complete copies of the originals, as amended to the date of this Agreement. The Developer has full right, power and lawful authority to accept the conveyance of the Site and undertake and satisfy all obligations as provided herein and the execution, performance, and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of the Developer.

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

c. No Developer Bankruptcy. The Developer is not the subject of a bankruptcy proceeding.

d. Litigation. There are no claims, causes of action or other litigation or proceedings pending or threatened against the Developer, or any affiliate thereof, that would affect Developer's ability to undertake and satisfy all of its obligations pursuant to in this Agreement.

Until the Close of Escrow, the Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section not to be true as of the Close of Escrow, immediately give written notice of such fact or condition to the City. Such exception(s) to a representation shall not be deemed a breach of this Agreement by the

Developer, but shall constitute an exception which City shall have a right to approve or disapprove. If the City elects to close escrow following disclosure of such information, Developer's representations and warranties shall be deemed to have been made as of the Close of Escrow, subject to the exception(s). If, following the disclosure of such information, the City elects to not close escrow, then this Agreement and the escrow shall automatically terminate, and neither party shall have any further rights, obligations or liabilities pursuant hereunder. The representations and warranties set forth in this Section shall survive the Close of Escrow.

III. [§300] FINANCING; AFFORDABLE HOUSING COVENANT

A. [§301] Financing

The Developer intends to apply for an allocation of 9% or 4% low-income housing tax credits (the "**Tax Credit Financing**") to the California Tax Credit Allocation Committee ("CTCAC") as well as subsidy financing from the California Department of Housing and Community Development to cover the costs of development of the Project.

The Developer shall complete or cause to be completed all actions necessary to secure all approvals and commitments necessary to effectuate the Tax Credit Financing, and all other alternative funding, as the case may be, including construction and/or permanent financing, in an amount satisfactory to complete the development of the Site.

Development of the Project is contingent upon Developer receiving the Tax Credit Financing. Developer intends to submit an application for the Tax Credit Financing to CTCAC in 2022. In the event that Developer does not receive an allocation for the Tax Credit Financing in its first attempt, Developer shall submit applications for the Tax Credit Financing in up to two subsequent tax credit application rounds. In the event that the Developer does not receive an allocation of Tax Credit Financing for the Project after three consecutive applications, this Agreement shall terminate and neither the City nor the Developer shall have any obligation or liability to the other.

B. [§302] Affordable Housing Covenant

As more particularly provided in the Ground Lease, for a period beginning on the date on which a Certificate of Completion of Completion (as defined herein) records in the Official Records of Humboldt County for the Project and ending at the end of the Term of the Ground Lease as provided therein, the dwelling units in the Project shall be rented to families whose incomes do not exceed the incomes required by the Tax Credit Financing. Without limiting the generality of the foregoing, the Parties acknowledge that the dwelling units in the Project (except for the manager's unit) shall be rented to families whose incomes do not exceed sixty percent (60%) of area median income. At the Close of Escrow the City and Developer shall additionally record in the Official Records of Humboldt County a Notice of Affordability Restrictions on Transfer of Property ("**Notice of Affordability**") to the City in the forms substantially as set forth in Attachment No. 7, attached hereto and incorporated herein by reference.

IV. [§400] DEVELOPMENT OF THE SITE

A. [§401] Development of the Site

1. [§402] Scope of Development

The Site will be improved with a mixed-use project (the "**Project**") that will have the following primary components:

a. Light industrial/retail space: Approximately 20,000 square feet of ground floor light industrial/retail space for land use types such as light manufacturing and processing, distribution and associated warehousing, commercial services, and professional offices and services.

b. Affordable housing: 40 residential units ranging from 450 to 1,200 square feet on upper floors above the light industrial/retail space, to be rented at affordable rents to low income seniors and/or families; and

c. Public Improvements: Public improvements that the City requires Developer to construct or install as a condition of approval of the light industrial/retail space and affordable housing as described above. The public improvements that the City anticipates will be required as conditions of approval for the development will include but may not be limited to the improvements described in Attachment No. 9, attached hereto and incorporated herein by reference.

Developer shall diligently pursue the development of the Project in accordance with the "Scope of Development," attached here to as Attachment No. 4 and incorporated herein by reference and the "Schedule of Performance" attached hereto as Attachment No. 3 and incorporated herein by reference. Developer's failure to comply with any of the terms set forth in the Scope of Development (Attachment No. 4) or the Schedule of Performance (Attachment No. 3), following notice to Developer and expiration of any applicable cure period provided for hereunder, shall be a default hereunder.

2. [§403] Basic Concept Drawings

Within the time set forth in the Schedule of Performance (Attachment No. 3), the Developer shall prepare and submit to the City, for review and written approval, Basic Concept Drawings and related documents containing the overall plan for development of the Site. The Basic Concept Drawings shall conform to this Agreement, including the Scope of Development (Attachment No. 4) and any presentation materials or site plans approved by the City prior to or at the time of execution of this Agreement. The City shall approve or disapprove the Basic Concept Drawings within the time established in the Schedule of Performance. Failure by the City to either approve or disapprove within such time shall be deemed an approval. Any disapproval shall state in writing the reasons for disapproval.

The Site shall be developed as generally established in the Basic Concept Drawings and related documents, except as changes may be mutually agreed upon between the Developer and the City. Any such changes shall be within the limitations of the Scope of Development (Attachment No. 4).

3. [§404] Construction Plans, Drawings and Related Documents

The Developer shall prepare and submit construction plans, drawings and related documents to the City for architectural and site planning review and written approval as and at the times established in the Schedule of Performance (Attachment No. 3). The construction plans, drawings and related documents shall be submitted in two stages: preliminary and final working drawings. Final drawings and plans are hereby defined as those in sufficient detail to obtain a building permit for the improvements to be constructed on the Site.

The Developer shall also prepare and submit to the City, for its approval, preliminary and final landscaping and finish grading plans for the Site. Such preliminary and final plans shall be prepared and submitted within the times established in the Schedule of Performance (Attachment No. 3), subject to extensions as are authorized herein or as mutually agreed to by the parties hereto.

During the preparation of all drawings and plans, City staff and the Developer shall hold regular progress meetings to coordinate the preparation of, submission to and review of construction plans and related documents by the City. The City and the Developer shall communicate and consult informally, as frequently as is necessary, to insure that the formal submittal of any documents to the City can receive prompt and speedy consideration.

If any revisions or corrections of plans approved by the City shall be required by any government official, agency, department or bureau having jurisdiction, or any lending institution involved in financing, the Developer and the City shall cooperate in efforts to obtain a waiver of such requirements or to develop a mutually acceptable alternative.

4. [§405] City Approval of Plans, Drawings and Related Documents

The City shall approve or disapprove the plans, drawings and related documents referred to in Section 404 of this Agreement within the times established in the Schedule of Performance (Attachment No. 3). Any disapproval shall state in writing the reasons for disapproval and the changes that the City requests be made. Such reasons and such changes must be consistent with the Scope of Development (Attachment No. 4) and any items previously approved hereunder by the City. The Developer, upon receipt of a disapproval based upon powers reserved by the City hereunder, shall revise such plans, drawings and related documents and resubmit them to the City as soon as possible after receipt of the notice of disapproval, provided that in no case shall the City be entitled to require changes inconsistent with the Scope of Development and any previously approved items.

If the Developer desires to make any substantial change in the construction plans after their approval by the City, the Developer shall submit the proposed change to the City for its approval. If the construction plans, as modified by the proposed change, conform to the requirements of Section 404 of this Agreement, the approvals previously granted by the City under this Section 405 and the Scope of Development (Attachment No. 4), the City shall approve the proposed change and notify the Developer in writing within thirty (30) days after submission to the City. Such change in the construction plans shall, in any event, be deemed approved by the City unless rejected, in whole or in part, by written notice thereof by the City to the Developer setting forth in detail the reasons therefor, and such rejection shall be made within said thirty (30) day period.

5. [§406] Cost of Construction

All costs of developing the Site and constructing all improvements thereon shall be borne by the Developer. The City and the Developer shall each pay the costs necessary to administer and carry out their respective responsibilities and obligations under this Agreement.

6. [§407] Construction Schedule

After the conveyance of title to the Site, the Developer shall promptly begin and thereafter diligently prosecute to completion the construction of the improvements and the development of the Site. The Developer shall begin and complete all construction and development within the times specified in the Schedule of Performance (Attachment No. 3) or such reasonable extension of said dates as may be granted by the City or as provided in Section 704 of this Agreement. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between the Developer and the City.

During the period of construction, but not more frequently than once a month, the Developer shall submit to the City a written progress report of the construction when and as requested by the City. The report shall be in such form and detail as may reasonably be required by the City and shall include a reasonable number of construction photographs taken since the last report submitted by the Developer.

7. [§408] Insurance

a. Workers' Compensation. During the term of this Agreement, Developer shall fully comply with the terms of the laws of the State of California concerning workers' compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability Developer may have for Developer's workers' compensation. Said policy shall also include employer's liability coverage no less than $1,000,000 per accident for bodily injury or disease.

b. General Liability Insurance. Developer shall obtain at its sole cost and keep in full force and effect during the term of this Agreement commercial general liability insurance in the amount of $1,000,000 per occurrence and $3,000,000 aggregate for bodily injury, personal injury, and property damage. Said insurance shall provide (1) that the City, and its officers, agents, employees and volunteers, shall be named as additional insureds under the policy,

and (2) that the policy shall operate as primary insurance, and that (3) no other insurance effected by the City or other named insureds will be called upon to cover a loss covered thereunder.

c. Automobile Liability Insurance. Developer shall obtain at its sole cost and keep in full force and effect during the term of this Agreement automobile liability insurance in the amount of $1,000,000 per occurrence for bodily injury and property damage. Said insurance shall provide (1) that the City, and its officers, agents, employees and volunteers, shall be named as additional insureds under the policy, and (2) that the policy shall operate as primary insurance, and that (3) no other insurance effected by the City or other named insureds will be called upon to cover a loss covered thereunder.

d. Course of Construction Insurance. Developer shall obtain at its sole cost and keep in full force and effect during the term of the Agreement Course of Construction insurance with policy limits no less than $3,000,000 with no coinsurance penalty provisions. The City shall be named as loss payee and the insurer shall waive all rights of subrogation against the City.

e. Contractor Requirements. Developer shall also furnish or cause to be furnished to the City evidence satisfactory to the City that any contractor with whom it has contracted for the performance of work on the Site carries the insurance required of Developer, and in the amounts of coverage specified, and each general contractor shall be required to obtain certification of insurance from all subcontractors.

f. Certificates of Insurance. Developer shall file with City, prior to commencement of construction on the Site or any portion thereof or prior to any access to or entry on the Site as authorized by this Agreement, certificates of insurance which shall provide that no cancellation, material change in coverage, expiration, or nonrenewal will be made during the term of this Agreement, without thirty (30) days written notice to the City Manager prior to the effective date of such cancellation, or change in coverage. Upon notification of receipt by City of a notice of cancellation or major change in coverage, Developer shall, prior to the effective date of policy expiration or reduction in coverage, file with City replacement insurance certificate evidencing the new coverage is substantially the same form and content as previously provided. All insurance shall stipulate that such insurance will operate as primary insurance and that no other insurance effected by the City will be called upon to contribute to a loss suffered by Developer hereunder. All insurance shall name City as additional insured and/or loss payee, as appropriate.

8. [§409] City and Other Governmental Agency Permits

Before commencement of construction or development of any buildings, structures or other work of improvement upon the Site (unless such construction, development or work is to be commenced before the conveyance of title), the Developer shall, at its own expense, secure or cause to be secured any and all permits that may be required by the City or any other governmental agency affected by such construction, development or work. The City shall provide all assistance deemed appropriate by the City to the Developer in securing these permits.

9. [§410] Rights of Access

For the purposes of assuring compliance with this Agreement, representatives of the City shall have the reasonable right of access to the Site upon no less than 48 hours written notice to the Developer, without charges or fees and at normal construction hours, during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. Such representatives of the City shall be those who are so identified in writing by the City Manager. The City shall indemnify the Developer and hold it harmless from any damage caused or liability arising out of this right to access.

10. [§411] Local, State and Federal Laws

The Developer shall carry out the construction of the improvements in conformity with all applicable laws, including all applicable federal and state labor standards.

11. [§412] Antidiscrimination During Construction

The Developer, for itself and its successors and assigns, agrees that in the construction of the improvements provided for in this Agreement, the Developer will not discriminate against any employee or applicant for employment on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

B. [§413] Taxes, Assessments, Encumbrances and Liens

The Developer shall pay when due all real estate taxes and assessments assessed and levied on its leasehold interest in the Site, including but not limited to possessory interest taxes, for any period subsequent to conveyance of title to or delivery of possession of the Site. Prior to the issuance of a Certificate of Completion, the Developer shall not place or allow to be placed on the Site any mortgage, trust deed, encumbrance or lien unauthorized by this Agreement. The Developer shall remove or have removed any levy or attachment made on the Site (or any portion thereof), or shall assure the satisfaction thereof, within a reasonable time, but in any event prior to a sale thereunder. Nothing herein contained shall be deemed to prohibit the Developer from obtaining a welfare tax exemption, contesting the validity or amounts of any tax, assessment, encumbrance or lien, nor to limit the remedies available to the Developer in respect thereto.

The Developer understands that under certain conditions, its control of the Site or portion thereof under this Agreement may give rise to the imposition of a possessory interest tax on said property, and in such event, the Developer agrees to pay when due any such possessory interest tax.

C. [§414] Prohibition Against Transfer of Site, the Buildings or Structures Thereon and Assignment of Agreement

After conveyance of leasehold title to the Site and prior to the issuance by the City of a Certificate of Completion pursuant to Section 422, the Developer shall not, except as expressly permitted by this Agreement, sell, transfer, convey, assign or lease the whole or any part of its interest in the Site or the buildings or improvements thereon, without the prior written approval of the City. This prohibition with respect to the Site shall not apply subsequent to the issuance of the Certificate of Completion for the Site, except that Developer's interest in the Site shall only be transferred, conveyed, assigned or leased in accordance with Sections 501 and 502. This prohibition shall not be deemed to prevent the granting of easements, dedications or permits to facilitate the development of the Site when said improvements are completed.

In the absence of specific written agreement by the City, no such transfer, assignment or approval by the City shall be deemed to relieve the Developer or any other party from any obligations under this Agreement until completion of development as evidenced by the issuance of a Certificate of Completion therefor.

Following transfer of Developer's interest in the Site with the City's consent, Developer shall be relieved of all of its obligations hereunder. Any such proposed transferee, conveyee, assignee or lessee, by instrument in writing satisfactory to the City and in form recordable among the land records, for itself and its successors and assigns, and for the benefit of the City, shall expressly assume all of the obligations of the Developer under this Agreement and agree to be subject to all conditions and restrictions to which the Developer is subject. In the absence of specific written agreement of any proposed transferee, conveyee, assignee or lessee approved by the City as referred to above, no such transfer, conveyance, assignment or lease, or the approval thereof by the City, shall be deemed to relieve the Developer or any other party from any obligations under this Agreement.

D. [§415] Security Financing; Rights of Holders

1. [§416] No Encumbrances Except Mortgages, Deeds of Trust, Sales and Leases-Back or Other Financing for Development

Notwithstanding Sections 413 and 414 of this Agreement, mortgages, deeds of trust, sales and leases-back or any other form of conveyance of Developer's leasehold interest as required for any reasonable method of financing are permitted before issuance of a Certificate of Completion, but only for the purpose of securing loans of funds to be used for financing, the construction of improvements on the Site and any other expenditures necessary and appropriate to develop the Site under this Agreement. The Developer shall notify the City in advance of any mortgage, deed of trust, sale and lease-back or other form of conveyance for financing if the Developer proposes to enter into the same before issuance of a Certificate of Completion. The Developer shall not enter into any such conveyance for financing without the prior written approval of the City (unless such lender shall be one of the ten (10) largest banking institutions doing business in the State of California, or one of the ten (10) largest insurance lending institutions in the United States qualified to do business in the State of California), which approval

the City agrees to give if any such conveyance is given to a responsible financial or lending institution or other acceptable person or entity. Such lender shall be deemed approved unless rejected in writing by the City within ten (10) days after notice thereof to the City by the Developer. In any event, the Developer shall promptly notify the City of any mortgage, deed of trust, sale and lease-back or other financing conveyance, encumbrance or lien that has been created or attached thereto prior to completion of the construction of the improvements on Developer's leasehold interest in the Site whether by voluntary act of the Developer or otherwise. The words "mortgage" and "deed of trust," as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development.

2. [§417] Holder Not Obligated to Construct Improvements

The holder of any mortgage, deed of trust or other security interest authorized by this Agreement shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion, nor shall any covenant or any other provision in the Ground Lease for the Site be construed so to obligate such holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement.

3. [§418] Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure

Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in completion of construction of the improvements, the City shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage, deed of trust or other security interest authorized by this Agreement who has previously made a written request to the City therefor. Each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default and to add the cost thereof to the security interest debt and the lien on its security interest. In the event there is more than one such holder, the right to cure or remedy a breach or default of the Developer under this Section 418 shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of the Developer under this Section 418. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the improvements (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the City by written agreement satisfactory to the City. The holder in that event must agree to complete, in the manner provided in this Agreement, the improvements to which the lien or title of such holder relates and submit evidence satisfactory to the City that it has the qualifications and financial responsibility necessary to perform such obligations. Any such holder properly completing such improvements shall be entitled, upon written request made to the City, to a Certificate of Completion from the City.

4. [§419] Failure of Holder to Complete Improvements

In any case where, six (6) months after default by the Developer in completion of construction of improvements under this Agreement, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Site has not exercised the option to construct, or if it has exercised the option and has not proceeded diligently with construction, the City may purchase the mortgage, deed of trust or other security interest by payment to the holder of the amount of the unpaid debt, plus any accrued and unpaid interest. If the ownership of the Site has vested in the holder, the City, if it so desires, shall be entitled to a conveyance of the leasehold interest in the Site from the holder to the City upon payment to the holder of an amount equal to the sum of the following:

a. The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

b. All expenses with respect to foreclosure;

c. The net expenses, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Site;

d. The costs of any authorized improvements made by such holder; and

e. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the City.

5. [§420] Right of City to Cure Mortgage, Deed of Trust or Other Security Interest Default

In the event of a default or breach by the Developer of a mortgage, deed of trust or other security interest with respect to the Site prior to the completion of development, and the holder has not exercised its option to complete the development, the City may cure the default prior to completion of any foreclosure. In such event, the City shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the City in curing the default. The City shall also be entitled to a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be subject to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to purchase and develop the Site as authorized herein.

E. [§421] Right of the City to Satisfy Other Liens on the Site After Title Passes

After the conveyance of title and prior to the issuance of a Certificate of Completion for construction and development, and after the Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the Site, the City shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the

Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Site to forfeiture or sale.

F. [§422] Certificate of Completion

Promptly after completion of all construction and development to be completed by the Developer upon the Site, the City shall furnish the Developer with a Certificate of Completion for the Site in substantially the form attached hereto as Attachment No. 8 upon written request therefor by the Developer. Such Certificate of Completion shall be in such form as to permit it to be recorded in the Office of the County Recorder of Humboldt County. The Project will be deemed completed upon the issuance of a Certificate of Occupancy and the recording of the Notice of Affordability described in Section 302.

A Certificate of Completion shall be, and shall so state, conclusive determination of satisfactory completion of the construction required by this Agreement, and of full compliance with the terms hereof with respect to such construction. After issuance of such Certificate of Completion, any party then owning or thereafter purchasing, leasing or otherwise acquiring the Site shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by the covenants contained in the Ground Lease, including the covenants requiring the residential units to be rented to low income households, and any covenants contained in the deed, lease, mortgage, deed of trust, contract or other instrument of transfer in accordance with the provisions of Sections 501-505 of this Agreement. Except as otherwise provided herein, after the issuance of a Certificate of Completion, neither the City nor any other person shall have any rights, remedies or controls with respect thereto that it would otherwise have or be entitled to exercise under this Agreement as a result of a default in or breach of any provision of this Agreement, and the respective rights and obligations of the parties shall be as set forth in the Ground Lease, which shall be in accordance with the provisions of Sections 501-505 of this Agreement.

The City shall not unreasonably withhold any Certificate of Completion. If the City refuses or fails to furnish a Certificate of Completion for the Site after written request from the Developer, the City shall, within ten (10) days of the next regularly scheduled City meeting after such written request, provide the Developer with a written statement of the reasons the City refused or failed to furnish a Certificate of Completion. The statement shall also contain the City's opinion of the action the Developer must take to obtain a Certificate of Completion. If the reason for such refusal is confined to the immediate unavailability of specific items or materials for landscaping, the City will issue its Certificate of Completion upon the posting of a bond by the Developer with the City in an amount representing a fair value of the work not yet completed. If the City shall have failed to provide such written statement within said ten (10) day period after such City meeting, the Developer shall be deemed entitled to the Certificate of Completion.

Such Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the improvements or any part thereof. Such Certificate of Completion is not notice of completion as referred to in California Civil Code Section 3093.

V. [§500] USE OF THE SITE

A. [§501] Property Management; Maintenance of the Project

Within the time set forth in the Schedule of Performance (Attachment No. 3), the Developer shall prepare and enter into an agreement with a property management company (the "**Property Management Company**") preapproved by the City to manage the Project. The Developer shall submit a copy of such agreement to the City, provided the City shall not have the right to approve or disapprove such agreement except to ensure compliance of such agreement with the provisions of this Agreement and the Ground Lease. The property management agreement shall name the City as a third-party beneficiary permitting the City the right to enforce the agreement upon the default (after expiration of all notice and cure periods) of the Property Management Company.

For purposes of this Section 501, the City hereby approves of Danco Property Management as an approved Property Management Company. The Developer shall promptly notify the City in the event there is any change in the Property Management Company managing the Project. The City shall have the right to approve any new Property Management Company, which approval shall not be unreasonably withheld. In the event that the Property Management Company changes, Developer shall prepare and enter into an agreement with another property management company and submit such agreement to the City to ensure compliance as stated above.

The Developer further covenants, and the property management agreement shall require, that the Project shall be operated and Eligible Households shall be qualified and selected for tenancy in strict compliance with "**Leasing Guidelines**" for the Project to be prepared by the Developer (or Property Management Company) and approved by the City. The Leasing Guidelines and any modifications or amendments to the Leasing Guidelines shall require prior written approval of the City, which approval shall not be unreasonably withheld or delayed. The City Manager shall have the authority to approve the Leasing Guidelines and any such modifications or amendments on behalf of the City.

The Developer covenants that it shall maintain, or cause to be maintained, the Site and the improvements to be constructed thereon, in a manner consistent with the provisions set forth therefor in the City of Blue Lake Municipal Code, and shall keep the Site reasonably free from any accumulation of debris or waste materials prior to and after completion of the Project.

If, at any time, Developer fails to maintain and operate the Site in accordance with this Agreement, the City shall have the right to take necessary corrective action pursuant to the provisions set forth in the Ground Lease.

Failure by Developer to maintain, or cause to be maintained, the Site in the condition provided in this Section 501 shall, following expiration of all applicable notice and cure periods, constitute a default hereunder and under the Ground Lease; provided, however, that nothing herein or in the Ground Lease shall be deemed to provide Developer with more than one notice and cure period for each event of default.

The foregoing covenants shall remain in effect for the term of the Ground Lease.

B. [§502] Obligation to Refrain From Discrimination

The Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Site, the Units or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Developer or any person claiming under or through the Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Units. The foregoing covenants shall run with the land in accordance and shall remain in effect in perpetuity.

C. [§503] Form of Nondiscrimination and Nonsegregation Clauses

The Developer shall refrain from restricting the rental, conveyance or lease of any portion of its leasehold interest in the Site on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. All such leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. **In leases**: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

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

2. **In contracts**: "There shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the

Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee , or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land."

D. [§504] Effect and Duration of Covenants

The covenants contained in Sections 501 through 503 of this Agreement shall be deemed to run with the land and shall remain in effect for the term of the Ground Lease. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding on the part of the Developer and any successors and assigns to its leasehold interest in the Site or any part thereof, and the tenants, lessees, sublessees and occupants of the Site, for the benefit of and in favor of the City and its successors or assigns and may be enforced by the City and its successors and assigns.

E. [§505] Rights of Access – Public Improvements and Facilities

For the purposes of assuring compliance with this Agreement, representatives of the City shall have the reasonable right of access to the Site, with reasonable notice to Developer and subject to the rights of the tenants, and without charges or fees for the purpose of inspection of the Site.

VI. [§600] DEFAULTS, REMEDIES AND TERMINATION

A. [§601] Defaults – General

Subject to the extensions of time set forth in Section 704, failure or delay by either party to perform any material term or provision of this Agreement constitutes a default under this Agreement. The party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence and during any period of curing shall not be in default.

The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Except as required to protect against further damages and except as otherwise expressly provided in Sections 607 and 608 of this Agreement, the injured party may not institute proceedings against the party in default until thirty (30) days after giving such notice, or if such default cannot reasonably be cured within thirty (30) days and cure is commenced within such initial thirty (30) day period, such longer period as is necessary, not to exceed ninety (90) days. Failure or delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert or enforce any such rights or remedies.

B. [§602] Legal Actions

1. [§603] Institution of Legal Actions

In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, or recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Humboldt, State of California, in an appropriate municipal court in that county or in the appropriate Federal District Court in the State of California.

2. [§604] Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

3. [§605] Acceptance of Service of Process

In the event that any legal action is commenced by the Developer against the City, service of process on the City shall be made by personal service upon the City Manager or in such other manner as may be provided by law.

In the event that any legal action is commenced by the City against the Developer, service of process on the Developer shall be made by personal service upon the Developer or in such other manner as may be provided by law and shall be valid whether made within or without the State of California.

C. [§606] Rights and Remedies are Cumulative

Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by the other party.

D. [§607] Damages

If the Developer or the City defaults with regard to any of the provisions of this Agreement, the nondefaulting party shall serve written notice of such default upon the defaulting party. If the default is not cured or commenced to be cured by the defaulting party within ninety (90) days after service of the notice of default, the defaulting party shall be liable to the other party for any damages caused by such default.

E. [§608] Specific Performance

If the Developer or the City defaults under any of the provisions of this Agreement, the nondefaulting party shall serve written notice of such default upon the defaulting party. If the default is not commenced to be cured by the defaulting party within thirty (30) days of service of the notice of default, the nondefaulting party, at its option, may institute an action for specific performance of the terms of this Agreement.

F. [§609] Remedies and Rights of Termination Prior to Conveyance

1. [§610] Termination by the Developer

In the event that prior to conveyance of title to the Site to the Developer:

a. The City does not tender conveyance of the Site or possession thereof in the manner and condition and by the date provided in this Agreement, and any such failure is not cured within thirty (30) days after written demand by the Developer; or

b. The Developer is unable, despite diligent efforts, to obtain all approvals and permits required for the construction and development of the Units on the Site; or

c. The Developer determines that the physical condition of the Site is unsuitable for the use or uses to which the Site will be put in accordance with Section 211 hereof;

then this Agreement may, at the option of the Developer, be terminated by written notice thereof to the City. Upon such termination, neither the City nor the Developer shall have any further rights against or liability to the other under this Agreement.

2. [§611] Termination by the City

In the event that prior to conveyance of title to the Site to the Developer:

a. The Developer transfers or assigns or attempts to transfer or assign this Agreement or any rights herein or in its leasehold interest to the Site in violation of this Agreement; or

b. There is any significant change in the ownership or identity of the Developer or the parties in control of the Developer or the degree thereof contrary to the provisions of Section 105 hereof; or

c. The Developer does not submit evidence that it has obtained approvals for the Tax Credit Financing or alternative

financing and the necessary equity capital for development of the Site in satisfactory form and in the manner and by the date provided in this Agreement; or

d. The Developer fails to submit to the City Basic Concept Drawings or construction plans, drawings and related documents as required by this Agreement; or

e. The Developer fails to obtain all approvals and permits necessary for the construction and development of the Project on the Site; or

f. The Developer does not deliver the Ground Lease, Memorandum of Ground Lease, and Notice of Affordability, and take leasehold title to the Site under tender of conveyance by the City pursuant to this Agreement; or

g. The Developer is in breach or default with respect to any other obligation of the Developer under this Agreement; and

h. If any default or failure referred to in subdivision c., d., e., f. or g. of this Section shall not be cured or commenced to be cured within thirty (30) days after the date of written demand by the City;

then this Agreement, and any rights of the Developer or any assignee or transferee in this Agreement pertaining thereto or arising therefrom with respect to the City, may, at the option of the City, be terminated by the City by written notice thereof to the Developer. Upon any such termination, neither the City nor the Developer shall have any further rights against or liability to the other under this Agreement.

G. [§612] Remedies following Conveyance - Option to Terminate the Ground Lease

The City shall have the right at its option to terminate the Ground Lease, reenter, and take possession of the Site with all improvements thereon, if after conveyance of leasehold title to the Site and prior to the issuance of the Certificate of Completion therefor, the Developer:

1. Fails to commence the construction of the improvements on the Site as required by this Agreement for a period of ninety (90) days after written notice thereof from the City; or

2. Abandons or substantially suspends construction of improvements on the Site for a period of ninety (90) days after written notice of such abandonment or suspension from City; or

3. Transfers, or suffers any involuntary transfer of the Site or any part thereof in violation of this Agreement.

This option shall be subordinate and subject to and be limited by and shall not defeat, render invalid or limit:

1. Any first mortgage, deed of trust or other security instrument permitted by this Agreement; or

2. Any rights or interests provided in this Agreement for the protection of the holder of such mortgages, deeds of trust or other security instruments.

To exercise its right to terminate the lease, reenter, and take possession with respect to the Site, the City shall pay to the Developer in cash an amount equal to:

1. The costs actually incurred by the Developer for on-site labor and materials for the construction of the improvements existing on the Site at the time of the repurchase, reentry and repossession, exclusive of amounts financed; less

2. Any gains or income withdrawn or made by the Developer from the Site or the improvements thereon; and less

3. The amount of liens on the Site, and any unpaid assessments against the Site which are assumed by the City.

VII. [§700] GENERAL PROVISIONS

A. [§701] Notices, Demands and Communications Between the Parties

Formal notices, demands and communications between the City and the Developer shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the City and the Developer as set forth in Sections 104 and 105 hereof. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

B. [§702] Conflicts of Interest

No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement that affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

The Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

C. [§703] Nonliability of City Officials and Employees

No member, official or employee of the City shall be personally liable to the Developer in the event of any default or breach by the City or for any amount that may become due to the Developer or on any obligations under the terms of this Agreement.

D. [§704] Enforced Delay; Extension of Times of Performance

In addition to the specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of another party; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the City shall not excuse performance by the City); or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other parties more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by the City and the Developer.

E. [§705] Inspection of Books and Records

The City has the right, upon not less than seventy-two (72) hours' notice, at all reasonable times, to inspect the books and records of the Developer pertaining to the Site as pertinent to the purposes of this Agreement.

The Developer also has the right, upon not less than seventy-two (72) hours' notice, at all reasonable times, to inspect the books and records of the City pertaining to the Site as pertinent to the purposes of this Agreement.

F. [§706] Plans and Data

Where the Developer does not proceed with the acquisition of the leasehold interest and development of the Site, and when this Agreement is terminated pursuant to Section 611 hereof for any reason, the Developer shall deliver to the City any and all plans and data concerning the Site, and the City or any other person or entity designated by the City shall be free to use such plans and data, including plans and data previously delivered to the City, for any reason whatsoever without cost or liability therefor to the Developer or any other person.

G. [§707] Attorneys' Fees

Should any action be brought arising out of this Agreement including, without limitation, any action for declaratory or injunctive relief, the prevailing party shall be entitled to

reasonable attorneys' fees and costs and expenses of investigation incurred, including those incurred in appellate proceedings or in any action or participation in, or in connection with, any case or proceeding under Chapter 7, 11 or 13 of the Bankruptcy Code or any successor statutes, and any judgment or decree rendered in any such actions or proceedings shall include an award thereof.

VIII. [§800] SPECIAL PROVISIONS

A. [§801] Submission of Documents to the City for Approval

Whenever this Agreement requires the Developer to submit plans, drawings or other documents to the City for approval, which shall be deemed approved if not acted on by the City within a specified time, said plans, drawings or other documents shall be accompanied by a letter stating that they are being submitted and will be deemed approved unless rejected by the City within the stated time. If there is no time specified herein for such City action, the Developer may submit a letter requiring City approval or rejection of documents within thirty (30) days after submission to the City. This Section shall only apply to documents submitted pursuant to this Agreement, and shall not apply to submissions made as part of the City's review of development entitlements, building permits and other actions taken in its regulatory capacity.

B. [§802] Amendments to this Agreement

The Developer and the City agree to mutually consider reasonable requests for amendments to this Agreement that may be made by any of the parties hereto, lending institutions or bond counsel or financial consultants to the City, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein.

IX. [§900] ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement comprises pages 1 through 33, inclusive, and Attachment Nos. 1 through 9, attached hereto and incorporated herein by reference, all of which constitute the entire understanding and agreement of the parties.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City and the Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and the Developer.

X. [§1000] TIME FOR ACCEPTANCE OF AGREEMENT BY CITY

This Agreement, when executed by the Developer and delivered to the City, must be authorized, executed and delivered by the City within forty-five (45) days after the date of signature by the Developer or this Agreement shall be void, except to the extent that the Developer

shall consent in writing to further extensions of time for the authorization, execution and delivery of this Agreement. The effective date of this Agreement shall be the date when this Agreement has been signed by the City.

July 30, 2022

CITY:

CITY OF BLUE LAKE, a municipal corporation of the State of California

By: _____
Amanda Mager, City Manager

By: _____
Adelene Jones, Mayor

July 29, 2022

DEVELOPER:

DANCO COMMUNITIES, a California corporation

By: _____
Daniel Johnson, President

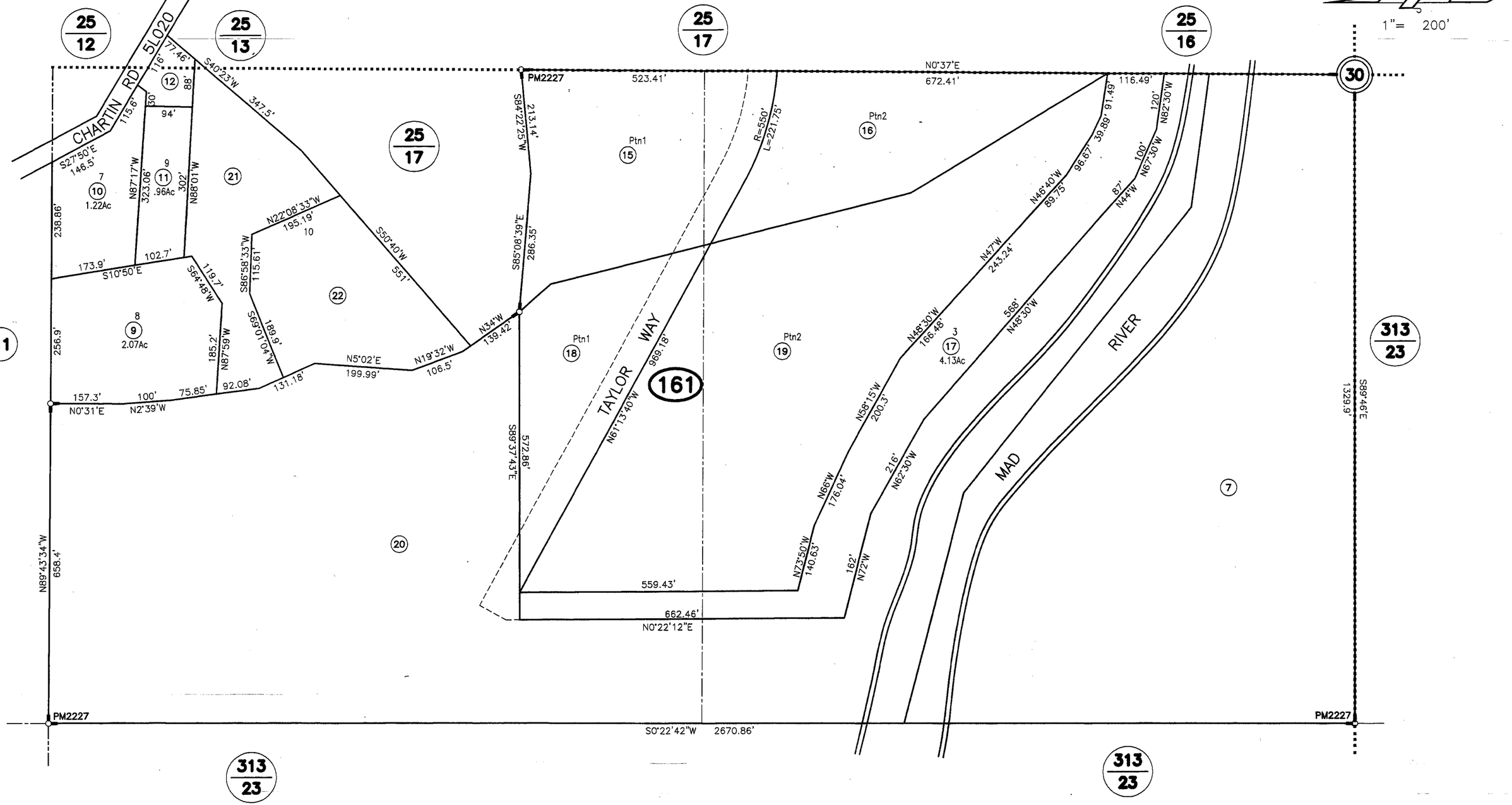
ATTACHMENT NO. 1

Map of Site

PTN E 1/2 OF NW 1/4 SEC 30 T6N R2E H.B.& M.

312-16

1"= 200'



ASSESSOR'S PARCEL MAP
1. THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.
2. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN.
3. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

PM2227 of PM Bk 19, Pgs 120-121
RS, Bk 21 of surveys, Pg 80
RS, Bk 53 of surveys, Pg 40
RS, Bk 59 of surveys, Pg 114
RS, Bk 63 of surveys, Pg 4

NOTE – Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk. 312, Pg.16
County of Humboldt, CA.

50' 100' 200'

Nov 2, 2010

ATTACHMENT NO. 2

[Intentionally Omitted]

ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

	ACTION	DATE
1.	Execution and Delivery of Agreement by Developer. The Developer shall execute and deliver this Agreement to the City.	Not later than June 20, 2022.
2.	Execution of Agreement by City. The City Council shall hold a public hearing to authorize execution of this Agreement by the City, and if so authorized, the City shall execute and deliver this Agreement to the Developer. (Section 900)	Within 45 days after execution and delivery by the Developer.
3.	Opening of Escrow. The City shall open an escrow for conveyance of the Site to the Developer. (Section 202)	Within 30 days after execution of this Agreement by the City.
4.	Submission – Basic Concept Drawings. The Developer shall prepare and submit to the City for review and approval Basic Concept Drawings and related documents containing the overall plan for development of the Site. (Section 303)	Within 30 days after execution of this Agreement by the City.
5.	Approval – Basic Concept Drawings. The City shall approve or disapprove the Developer's Basic Concept Drawings and related documents. (Section 303)	Within 45 days after receipt thereof by the City.
6.	Delivery of Preliminary Title Report. The City shall cause Escrow Agent to deliver to Developer the Preliminary Title Report. (Section 205)	Within 15 days after opening of escrow.
7.	Approval of Preliminary Title Report. The Developer shall approval or disapprove the Preliminary Title Report. (Section 205)	Within 30 days after receipt thereof by the Developer.

	ACTION	DATE
8.	Inspections; Condition of the Site The Developer shall complete its investigation of the Site; its physical condition, the soils and toxic conditions of the Site and all other matters that may affect the Developer's willingness to develop the Site pursuant to this Agreement. (Section 212)	Within 90 days after execution of this Agreement by the City.
9.	Submission – Preliminary Construction Drawings and Landscaping and Grading Plans. The Developer shall prepare and submit to the City for review and approval Preliminary Construction Drawings and Landscaping and Grading Plans for the Site. (Section 304)	Within 60 days after receiving an allocation of Tax Credits.
10.	Approval – Preliminary Construction Drawings and Landscaping and Grading Plans. The City shall approve or disapprove the Developer's Preliminary Construction Drawings and Landscaping and Grading Plans. (Section 305)	Within 45 days after receipt thereof by the City.
11.	Submission – Final Construction Drawings and Landscaping and Grading Plans. The Developer shall prepare and submit to the City for review and approval Final Construction Drawings and Landscaping and Grading Plans for the Site. (Section 304)	Not later than 60 days after approval of the Preliminary Construction Drawings.
12.	Submission – Evidence of Equity Capital and Financing. The Developer shall submit to the City for review and approval evidence of equity capital, Tax Credit Financing and other alternative financing necessary for development of the Site. (Section 214)	Within 90 days of receipt of an allocation of Tax Credits.

	ACTION	DATE
13.	Approval – Final Construction Drawings and Landscaping and Grading Plans. The City shall approve or disapprove the Developer's Final Construction Drawings and Landscaping and Grading Plans. (Section 305)	Prior to the date set forth herein for the close of escrow
14.	Approval – Evidence of Equity Capital and Mortgage Financing. The City shall approve or disapprove the Developer's evidence of equity capital and mortgage financing. (Section 214)	Within 30 days after receipt thereof by the City.
15.	Deposit of Executed Documents and All Required Sums. The Developer shall deposit the executed Ground Lease, Memorandum of Ground Lease, and Notice of Affordability, and all required sums into escrow. (Section 207)	Prior to the date set forth herein for the close of escrow.
16.	Deposit of Executed Documents. The City shall deposit the executed Ground Lease and Memorandum of Ground Lease into escrow. (Section 206)	Prior to the date set forth herein for the close of escrow.
17.	Close of Escrow. The City shall convey leasehold title to the Site to the Developer, and the Developer shall accept such conveyance. (Section 203)	Upon completion of all conditions to close of escrow, but in any event not later than December 31, 2024, or such later date as may be approved by both parties.
18.	Submission – Certificates of Insurance. The Developer shall furnish to the City duplicate originals or appropriate certificates of bodily injury and property damage insurance policies. (Section 308)	Prior to the date set forth herein for the commencement of construction of the Developer's improvements on the Site.
19.	Governmental Permits. The Developer shall obtain any and all permits required by the City or any other governmental agency. (Section 309)	Prior to the date set forth herein for the commencement of construction of the Developer's improvements on the Site.

	ACTION	DATE
20.	Commencement of Construction of Developer's Improvements. The Developer shall commence construction of the improvements to be constructed on the Site. (Section 307)	Within 30 days after conveyance of the leasehold interest in the Site by the City to the Developer.
21.	Property Management Agreement. The Developer shall enter into an agreement with the approved Property Management Company. (Section 502)	Prior to completion of construction of the improvements on the Site.
22.	Completion of Construction of Project. The Developer shall complete construction of the Project to be constructed on the Site.	Within 18 months after commencement thereof by the Developer.
23.	Issuance – Certificate of Completion. The City shall furnish the Developer with Certificate of Completion. (Section 422)	Promptly after completion of all construction required to be completed on the Site and upon written request therefor by the Developer.

ATTACHMENT NO. 4

SCOPE OF DEVELOPMENT

I. PRIVATE DEVELOPMENT

A. General

The Developer agrees that the Site shall be developed and improved in accordance with the provisions of this Agreement and the plans, drawings and related documents approved by the City pursuant hereto. The Developer and its supervising architect, engineer and contractor shall work with City staff to coordinate the overall design, architecture and color of the improvements on the Site.

B. Developer's Improvements

The Developer shall construct, or cause to be constructed, in accordance with all City of Blue Lake requirements, on the Site, the Project, consisting of the following:

The Site will be improved with a mixed-use project (the "**Project**") that will have the following components:

a. Light industrial/retail space: Approximately 20,000 square feet of ground floor light industrial/retail space for land use types such as light manufacturing and processing, distribution and associated warehousing, commercial services, and professional offices and services.

b. Affordable housing: 40 residential units ranging from 450 to 1,200 square feet on upper floors above the light industrial/retail space, to be rented at affordable rents to low income seniors and/or families; and

c. 1, 2 and 3 bedroom units in a 3-story structure. Amenities are envisioned to include: residential common space (community room/kitchen) and other residential common on each residential floor, covered entry, lobby, on site services and management, ample parking, multiple roof decks on second and third levels.

Building materials and standards of construction for the Units shall be subject to the approval of the City.

The Developer shall be responsible for the development of all on-site and off-site improvements required for the Project or otherwise made a condition to the development of the Site, including without limitation landscaping as required by the City Planning Department and the extension of all water, sewer, and electric utility services to the Site.

C. Architecture and Design

The Developer's improvements shall be of high architectural quality, shall be well landscaped and shall be effectively and aesthetically designed. The shape, scale of volume, exterior design and exterior finish of the building must be consonant with, visually related to, physically related to and an enhancement of adjacent buildings within the Project Area. The Developer's plans submitted to the City shall describe in detail the architectural character intended for the Developer's improvements.

D. Applicable Codes

The Developer's improvements shall be constructed in accordance with the Uniform Building Code (with City modifications) and the Municipal Code.

II. SITE CLEARANCE AND PREPARATION

The Developer shall perform, or cause to be performed, at its sole cost and expense, the following work:

The Developer shall compact, finish grade and do such site preparation as is necessary for the construction of the Developer's improvements on the Site.

ATTACHMENT NO. 5

FORM OF GROUND LEASE

GROUND LEASE
Mixed Use Development Project)

This Ground Lease Mixed Use Development Project) ("**Lease**") is made and entered into as of _____, 20____ (the "**Effective Date**") by and between the City of Blue Lake, a municipal corporation of the State of California ("**Landlord**"), and _____, L.P., a California limited partnership ("**Tenant**"). Unless expressly defined otherwise herein, the capitalized terms in this Lease shall have the same meanings as those set forth in that certain Disposition and Development Agreement entered into by and between Landlord and Tenant and dated June 28, 2022 (the "**DDA**").

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, including the representations and covenants contained in this Agreement, Landlord and Tenant agree as follows:

ARTICLE I. PROPERTY AND BACKGROUND

1.1. Purpose. The purpose of this Lease is to develop and operate a project on the Property (defined in Section 1.3) pursuant to the conditions of this Lease. The project consists of (i) approximately 20,000 square feet of ground floor light industrial/retail space for land use types such as light manufacturing and processing, distribution and associated warehousing, commercial services and professional offices and services, and (ii) forty (40) residential units ranging from 450 to 1,200 square feet on upper floors above the light industrial/retail space, thirty-nine (39) of which are to be rented at affordable rents to low income seniors and/or families, as more specifically described herein (the "**Project**").

1.2. Tenant. Tenant is a California limited partnership. Community Revitalization and Development Corporation is the managing general partner of Tenant and [_____], an affiliate of Danco Communities, is the administrative general partner of Tenant. Tenant will develop and operate the Project in accordance with this Lease, subject to the assignment and subletting provisions set forth in Article 15 herein.

1.3. Property. Landlord owns the real property comprised of Assessor's Parcel Numbers 312-161-018 and 312-161-015, a legal description of which is attached hereto as Exhibit A ("**Property**"). The Property is currently vacant.

1.4. Improvements. The Project includes the following improvements ("**Improvements**") which shall be designed, developed and constructed by Tenant in accordance with the Scope of Development attached to the DDA as Attachment No. 4; and in substantial compliance with the plans, drawings and documents submitted by Tenant to Landlord for development of the Project, as reasonably approved by Landlord:

A. Up to forty (40) affordable housing units in the upper floors, including a manager's unit.

B. Approximately 20,000 square feet of ground floor light industrial/retail space for land use types such as light manufacturing and processing, distribution and associated warehousing, commercial services, and professional offices and services.

C. Construction or installation of those certain public improvements that City has required Developer to construct or install as a condition of approval of the light industrial/retail space and affordable housing as described above.

Lease of the Property. For and in consideration of the payment of rentals and the performance of all the covenants and conditions of this Lease, Landlord hereby leases and demises to Tenant, and Tenant hereby leases and hires from Landlord, the Property, for the term and upon the covenants and conditions set forth herein. The Tenant acknowledges and understands that the Property will be leased to the Tenant for purposes of development pursuant to this Lease and not for speculation in undeveloped land.

ARTICLE 2. TERM

2.1. Term. (a) Unless terminated earlier in accordance with the provisions of this Lease, the initial term of this Lease shall be for a period of fifty-seven (57) years (the "**Term**"). The term shall expire at 11:59 p.m. on the date which is the fifty-seventh (57th) anniversary of the Effective Date. Provided Tenant is not in material default under the Lease and all applicable notice and cure periods have expired, the Tenant shall have the option to extend the term for an additional thirty-five (35) years beyond the Initial Term (the "**Extended Term**") provided (i) the housing units remain subject to the affordability requirements set forth in this Lease for the Extended Term, and (ii) the Tenant has maintained the Property in good working order in accordance with the terms of this Lease. All references to the Term herein shall include the Extended Term if such option is exercised by Tenant.

2.2. Early Termination. If Tenant has not commenced construction of the Improvements described in Section 1.4 within ninety (90) days after the Effective Date, Landlord shall give Tenant written notice that if construction has not commenced within thirty (30) days of such notice, the Term of this Lease shall terminate. If Tenant fails to commence construction within thirty (30) days of such notice, the Term of this Lease shall terminate. For the purposes of this Section 3.3, "commencement of construction" shall mean the commencement of rough grading of the Property in furtherance of the Project.

ARTICLE 3. CONVEYANCE OF LEASEHOLD TITLE TO THE PROPERTY

3.1 Conveyance of Leasehold Title to the Property.

A. Memorandum of Lease. The Landlord and the Tenant agree to execute and acknowledge for recording, a memorandum in accordance with Section 17.11 hereof, with the Tenant being responsible for the payment of the documentary transfer tax, if any, that may be due in connection with the recording thereof.

B. Condition of Title. At the time that the Landlord delivers possession of the Property to the Tenant, title shall be free and clear of all recorded liens, encumbrances,

assessments, leases and taxes except easements of record and encumbrances that are consistent with this Lease and reasonably approved by the Tenant.

C. Delivery of Possession. Subject to Section 4.1.B. above, at the time that the Landlord delivers possession of the Property to the Tenant, the Property shall be conveyed free of any possession or right of possession by any person.

ARTICLE 5. RENT

4.1. Base Rent. Commencing on the Commencement Date and during the Term of the Lease, Tenant shall pay annual rent of ONE DOLLAR ($1) (the "**Base Rent**"). Base Rent shall be payable in arrears on each anniversary of the Commencement Date. Tenant may prepay all or any portion of the Base Rent at any time.

4.2. Market Rent.

A. In the event that Tenant's leasehold estate is acquired by a Leasehold Mortgagee as defined in Article 16 by foreclosure, deed in lieu of foreclosure or otherwise and such leasehold mortgagee (or any successor in interest to such Leasehold Mortgagee) does not operate the Project so as to maintain the housing units at Affordable Rents for Low Income Households as those terms are defined in Section 6.2.B. (the "**Market Election**") as evidenced by either: (a) written notice from such leasehold mortgagee, or (b) renting or offering a unit for rent at rents not in accordance with Section 6.2.B. (in either case, a "**Market Apartment Rental**"), the annual rent shall be increased to a fair market rent (the "**Market Rent**") as hereinafter set forth. Notwithstanding the foregoing, the inadvertent or erroneous renting of an apartment at a rent or to a person or family not in accordance with Section 6.2.B. shall not by itself constitute a Market Election or a Market Apartment Rental if such leasehold mortgagee or successor shall cure any such inadvertent or erroneous rental by restoring the rental of the apartment to conformance with Section 6.2.B. by the earliest of (a) thirty (30) days after receiving written notice from Landlord that an apartment has been rented on terms not in accordance with Section 6.2.B. or (b) six (6) months from the date of the nonconforming rental agreement.

B. The Market Rent shall be determined by mutual agreement of the Landlord and Leasehold Mortgagee (or successor in interest), if possible. If Landlord and Leasehold Mortgagee are unable to agree upon the Market Rent, then either party may elect to have the Market Rent determined by appraisal by so notifying the other party in writing. Within thirty (30) days of such notice, the parties shall endeavor in good faith to select a mutually agreeable appraiser who shall determine the Market Rent. If the parties are unable to agree upon a mutually acceptable appraiser, then each party shall appoint an appraiser and the Market Rent shall be determined by mutual agreement of the appraisers so appointed within thirty (30) days of their appointment. If the appraisers are unable to agree upon the Market Rent within thirty (30) days of their appointment, then the Market Rent shall be determined by a third appraiser jointly selected by the appraisers appointed by Landlord and Leasehold Mortgagee. The Market Rent shall be the opinion of the Market Rent of the appraiser appointed by Landlord or Leasehold Mortgagee which is closest to the third appraiser's opinion of the Market Rent. All appraisers shall be MAI certified with at least ten (10) years' experience appraising residential rental and/or mixed use real estate in

the Humboldt County region. Each party shall bear the cost of its appraiser and the parties shall share equally in the cost of the third appraiser. If any party fails to promptly appoint an appraiser or if the appraisers are unable to select a third appraiser, the appraiser shall be appointed by the presiding judge of the Superior Court for the County of Humboldt upon the petition of either party.

C. The obligation to pay Market Rent, determined as set forth above, shall be phased in as Market Apartment Rentals occur. As Market Apartment Rentals occur, the rent shall increase on the first of the following month by a fraction of the Market Rent, the numerator of which shall be the number of Market Apartment Rentals that occurred in the preceding month and the denominator of which shall be the total number of apartments in the Project (each such date of increased rent being an "**Increase Date**"). The rent shall not decrease because of subsequent vacancies. The Market Rent shall be increased on each five (5) year anniversary of the first Increase Date and effective for each ensuing five (5) year period as follows:

1. The Consumer Price Index for the San Francisco/Oakland/ San Jose metropolitan area as published by the Bureau of Labor Statistics of the United States Department of Labor (the "**Index**") shall be determined as of each five (5) year anniversary date.

2. The Market Rent shall be increased for the ensuing five (5) year period by an amount equal to the percentage of the increase, if any, which has occurred in the Index by the end of the year immediately preceding each fifth (5th) anniversary date over the Index at the end of the year immediately preceding the first Increase Date.

3. If there shall be any delay in the publication of the Index, the Market Rent shall continue to be paid at the existing rate and said rental shall be retroactively adjusted within thirty (30) days after the publication of the Index.

4. Should the Bureau of Labor Statistics discontinue publication of the Index, then some other generally used and recognized index of prices selected by mutual agreement of Landlord and Leasehold Mortgagee shall be used as a substitute index. In the event the parties are unable to agree upon such an index, it shall be selected by arbitration pursuant to the rules of the American Arbitration Association. Pending such substitution of index, Market Rent shall continue to be paid at the existing rate and upon selection of the substitute index rent shall then be adjusted retroactive to the beginning of the period involved.

D. On the twenty-fifth (25th) anniversary of the first Increase Date and every twenty-five (25) years thereafter, Market Rent shall be redetermined in the manner set forth in Paragraph B.

4.3. Additional Rent. In addition to and not by way of limitation of Landlord's rights under specific provisions of this Lease, Landlord shall at all times have the right (at its sole election and without any obligation to do so) to advance on behalf of Tenant any amount payable under the terms hereof by Tenant, or to otherwise satisfy any of Tenant's obligations hereunder, provided that (except in case of an emergency calling for immediate payment) Landlord shall first have given Tenant no less than ten (10) business days' advance written notice of Landlord's intent to advance such amounts on behalf of Tenant, and Tenant fails to perform the act/make the

expenditure prior to the expiration of such ten (10) business day period. No advance by Landlord shall operate as a waiver of any of Landlord's rights under this Lease and Tenant shall remain fully responsible for the performance of its obligations under this Lease. All amounts advanced by Landlord shall constitute Additional Rent under this Lease, shall be due and payable by Tenant to Landlord within five (5) business days of Tenant's receipt of an invoice from Landlord therefor, together with supporting documentation, and shall bear interest at the rate specified in Section 5.6, below from the date of advance until paid in full.

4.4. Net Lease. This Lease is a net lease and Rent and other payments due and payable hereunder to or on behalf of Landlord shall be paid without notice or demand and, except as specifically provided for in this Lease, without offset, counterclaim, abatement, suspension, deferment, deduction or defense.

4.5. Late Payment of Rent. Any rent required under the terms of this Lease not paid when due shall bear interest at the lesser of twelve percent (12%) per annum, simple interest or the maximum rate allowed by law, from the date due.

ARTICLE 5. TAXES AND ASSESSMENTS

5.1. Personal Property Taxes. Tenant shall pay before delinquency all taxes, assessments, license fees and other charges ("**taxes**") that are levied and assessed against Tenant's personal property installed or located in or on the Property which become payable during the Term. On demand by Landlord, Tenant shall furnish Landlord with satisfactory evidence of these payments.

5.2. Real Property Taxes. Tenant shall pay all real property taxes, assessments and general and special taxes including, without limitation, possessory interest taxes ("**real property taxes**"), levied and assessed against the Property and all real property taxes and assessments levied against Tenant's interests in the Property during the Term. In the event Landlord receives a tax bill for the Property, Landlord shall notify Tenant of the real property taxes, and immediately on receipt of the tax bill, shall furnish Tenant with a copy of the tax bill. Tenant shall, semiannually, pay the real property taxes not later than the taxing authority's delinquency date. If at any time during the Term of this Lease any authority having the power to tax, including, without limitation, any federal, state, county, city government or any political subdivision thereof (collectively, "**taxing authority**"), shall alter the methods and/or standards of taxation and assessment against the legal or equitable interests of Landlord in the Property or the Improvements located or constructed thereon, in whole or in part, so as to impose a monetary obligation on Landlord in lieu of or in addition to the taxes and assessments in existence as of the date of this Lease, such taxes or assessments based thereon, including, without limitation, (a) a tax, assessment, excise, surcharge, fee, levy, penalty, bond or similar imposition (collectively, "**impositions**"), on Landlord's right to rental or other income from the Property or as against Landlord's leasing of the Property, (b) any impositions in substitution or in lieu, partially or totally, of any impositions assessed upon real property prior to any such alteration, (c) any impositions allocable to or measured by the area of the Property or the rental payable hereunder, including, without limitation, any impositions levied by any taxing authority with respect to the receipt of such rental or with

respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant or any subtenant of the Property or any portion thereof, (d) any impositions upon this lease transaction or any document to which Tenant is a party which creates or transfers any interest or estate in or to the Property (other than any transfer tax which may be due upon recordation of the Memorandum of Lease described in Section 3.1), or (e) any special, unforeseen or extraordinary impositions which, although not specifically described above, can fairly be characterized as a real property tax or a substitute for real property tax, shall be considered as "real property taxes" for the purposes of this Lease. "Real property taxes" shall exclude, however, all general income taxes, gift taxes, inheritance taxes and estate taxes owed by Landlord.

5.3. Intentionally Omitted.

5.4. New Assessments. If any general or special assessment or other governmental charge is levied on any business conducted on the Property, Tenant shall pay any such charge and shall have the right to vote or instruct the Landlord to vote in any election held in connection with the approval of such a charge. If any general or special assessment or other governmental charge is levied on the Property, Landlord shall have the right to vote in any election held in connection with the approval of such charge. Landlord may elect to pay the assessment in full or allow it to go to bond. If Landlord pays the assessment in full, Tenant shall pay to Landlord each time a payment of real property taxes is made a sum equal to that which would have been payable (as both principal and interest) had Landlord allowed the assessment to go to bond.

5.5. Tenant's Tax Liability Prorated. Tenant's liability to pay real property taxes and new assessments shall be prorated on the basis of a three hundred sixty-five (365) day year to account for any fractional portion of a fiscal tax year included in the lease term at its inception and expiration or earlier termination in accordance with this Lease.

5.6. Tax Contest. Without Landlord's prior written consent, Tenant shall not seek a reduction in the assessed valuation of the Property or contest any real property taxes that are to be paid by Tenant. Landlord's consent shall not be unreasonably withheld or delayed. If Landlord consents and Tenant seeks a reduction or contests the real property taxes, the failure on Tenant's part to pay the real property taxes shall not constitute default as long as Tenant complies with the provisions of this Section 5.6. Nothing in this Section prevents or prohibits Tenant from applying for a welfare tax exemption in a manner authorized by law.

Landlord shall not be required to join in any proceeding or contest brought by Tenant. Tenant, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered, together with all costs, charges, interest and penalties incidental to the decision or judgment. If Tenant does not pay the real property taxes when due and Tenant seeks a reduction or contests them as provided in this Section 5.6, before the commencement of the proceeding or contest Tenant shall furnish to Landlord a surety bond issued by an insurance company qualified to do business in California. The amount of the bond shall equal one hundred ten percent (110%) of the total amount of real property taxes in dispute. The bond shall hold Landlord and the premises harmless from any damage arising out of the proceeding or contest and shall insure the payment of any judgment that may be rendered.

ARTICLE 6. USE, CHARACTER, OPERATION AND MAINTENANCE OF IMPROVEMENTS

6.1. General. Tenant may use the Property and the Improvements only for the uses specified in Section 1.1 ("primary uses") and uses ancillary to such primary uses as herein specified. Tenant shall use the Property and the Improvements thereon for no other purpose without the prior written consent of Landlord which Landlord may grant or withhold in its sole discretion.

6.2. Use Obligations.

A. Nondiscrimination. There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, height, weight, physical appearance, marital status, ancestry or national origin in the sublease, transfer, use, occupancy, tenure or enjoyment of the Property or the Improvements thereon, or any part thereof, and the Tenant itself, or any person claiming under or through it, shall not establish or permit any such practice of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property or the Improvements thereon, or any part thereof.

B. Housing Affordability.

1. Definitions.

a. For purposes of this Lease, “Affordable Rent” as defined in California Health and Safety Code Section 50053(b) and accompanying regulations of the California Department of Housing and Community Development for lower income households, adjusted for household size based on number of bedrooms in the applicable unit, as set forth in Sections 6910-6932 of Title 25 of the California Code of Regulations, with allowance for utilities and maintenance costs, as such allowance may be established by the California Department of Housing and Community Development, from time to time.

b. For purposes of this Lease, “Low Income Household” means an individual or family whose income does not exceed sixty percent (60%) of the Area Median Income for Humboldt County, adjusted for household size appropriate for the applicable unit, as determined from time to time by the California Department of Housing and Community Development, pursuant to California Health and Safety Code Section 50079.5 and California Code of Regulations, Title 25, Section 6932.

2. Affordability Requirements.

a. Rent and Income Restrictions. From the date of the recording of this Lease and thereafter, for the remaining Term of this Lease, Tenant by and for

itself and any successors in interest, hereby covenants and agrees that all dwelling units within the Project (except a designated on-site manager's unit) shall be rented to Low Income Households at a rent that does not exceed the Affordable Rent for the applicable dwelling unit based on number of bedrooms.

b. Reporting Requirements. An annual report and annual income recertifications must be submitted to Landlord.

The reports, at a minimum, shall include:

(1) The number of persons per unit;

(2) Tenant name;

(3) Initial occupancy date;

(4) Rent paid per month;

(5) Adjusted gross income per year as certified by Tenant;

(6) Percent of rent paid in relation to income

If required by Landlord, annual income recertifications shall also contain those documents used to certify eligibility. Landlord may from time to time during the Term of this Lease request additional or different information and Tenant shall promptly supply such information in the reports required hereunder. Tenant shall maintain all necessary books and records, including property, personal and financial records, in accordance with requirements prescribed by Landlord with respect to all matters covered by this Section 6.2.B. Tenant, at such time and in such forms as Landlord may require, shall furnish to Landlord statements, records, reports, data and information pertaining to matters covered by this Section 6.2.B. Upon request for examination by Landlord and reasonable notice, Tenant, at any time during normal business hours, shall make available all of its records with respect to all matters covered by this Section 6.2.B. Tenant shall permit Landlord to audit, examine and make excerpts or transcripts from those records.

c. Subordination to Federal or State Programs. The affordability requirements in this Section 6.2.B. may be subordinated to a lien or encumbrance of a first mortgage lender or a regulatory agreement under a federal or state program where the federal or state agency is providing financing, refinancing or other assistance to the Project if the lender, federal or state agency refuses to consent to the seniority of the affordability requirements in this Section 6.2.B. on the basis that the lender, federal or state agency is required to maintain its lien, encumbrance or regulatory agreement or restrictions due to statutory or regulatory requirements, adopted or approved policies or other guidelines pertaining to the financing, refinancing or other assistance of the Project. Upon request, Landlord shall execute an instrument evidencing its agreement to subordinate; provided such lien, encumbrance or regulatory agreement includes the

following: (i) Landlord shall receive any notices of default under such lien, encumbrance or regulatory agreement; (ii) Landlord shall have the right to cure any default by Tenant within a reasonable time of notice of default; (iii) Landlord shall have the right to exercise its rights hereunder without such lender, federal or state agency accelerating its debt provided Landlord has cured or is attempting to cure any defaults; and (iv) Landlord shall have the right to transfer the Project to a nonprofit corporation who shall own and operate the Project as a low income and very low income rental housing project with the consent of such federal or state agency which consent shall not be unreasonably withheld.

6.3. Use Prohibitions. Tenant agrees that in connection with the use and operation of the Property it will not:

A. Permit undue accumulations of garbage, trash, rubbish or any other refuse; or

B. Create, cause, maintain or permit any nuisance (as the same may be defined by applicable law) in, on or about the Property; or

C. Commit or suffer to be committed any waste in, on or about the Property; or

D. Use or allow the Property to be used for any unlawful purpose, or for any purpose which violates the terms of any recorded instrument affecting the Property; or

E. Do or permit to be done anything which in any way unreasonably disturbs the occupants of neighboring property; or

F. Cause or permit any insurance coverage on the Property or the Improvements to become void or voidable or make it impossible to obtain any required insurance at commercially feasible rates; or

G. Intentionally cause or knowingly permit any material structural damage to the Property or the Improvements or to any adjacent public or private property; or

H. Violate any law, ordinance or regulation applicable to the Property and the Improvements thereon.

6.4. General Standards of Maintenance. Tenant shall be fully responsible for the operation and maintenance of the Improvements and any open space and common areas on the Property, and shall operate and maintain, or cause to be operated and maintained, such Improvements and open space and common areas in good order, condition and repair consistent with the purpose set forth in Section 1.1, subject only to normal wear and tear customary in accordance with applicable codes and ordinances and the practices prevailing in the operation of similar developments in the Humboldt County Area. Without limiting the generality of the foregoing, Tenant shall, in accordance with the practices prevailing in the operation of similar developments, observe the following standards:

A. Maintain the surface of all pedestrian areas level, smooth and evenly covered with the type of surfacing material originally installed thereon or such substitute therefor as shall be in all respects equal thereto or better in quality, appearance and durability;

B. Remove all papers, debris, filth and refuse, and sweep, wash down and/or clean all hard surfaces, including brick, metal, concrete, glass, wood and other permanent poles, walls or structural members as required;

C. Maintain such appropriate entrance, exit and directional signs, markers and lights as shall be reasonably required;

D. Clean lighting fixtures and relamp and/or reballast as needed;

E. Repaint striping, markers, directional signs, etc., as necessary to maintain in first class condition;

F. Maintain landscaping as necessary to maintain in first class condition;

G. Maintain signs, including relamping and/or reballasting and/or repairing as required;

H. Maintain and keep in good condition and repair all benches, shelters, planters, mall coverings, banners, furniture, trash containers, sculptures and other exterior elements;

I. Clean, repair and maintain all common utility systems to the extent that the same are not cleaned, repaired and maintained by public utilities;

J. Provide adequate security lighting in all areas during periods of unrestricted public access, and maintain all security and decorative light fixtures and associated wiring systems;

K. Maintain all surface and storm lateral drainage systems; and

L. Maintain all sanitary sewer lateral connections.

M. Promptly remove any graffiti on or about the Property.

6.5. Governmental Requirements. Except with respect to Landlord's obligations under Article 6 of this Lease, Tenant shall at all times comply with, and shall pay all costs and expenses which may be incurred or required to be paid in order to comply with, any and all laws, statutes, ordinances, rules and regulations ("**laws**") which apply to the operation and use of the Property, including those requiring alterations or additions to be made to, or safety appliances and devices to be maintained or installed in, on or about the Property under any laws now or hereafter adopted, enacted or made and applicable to the Property, and payment of any fees, charges or assessments

arising out of or in any way related to the Property as a source of adverse environmental impacts or effects.

6.6. Property Management Agreement. Tenant, at its expense, shall maintain in full force and effect during the entire Term of this Lease an agreement with a professional property management company ("**Manager**") for the maintenance and operation of the affordable housing component of the Project (the "**Property Management Agreement**"). Landlord shall approve the identity of the Manager in its reasonable discretion. The Tenant further covenants, and the property management agreement shall require, that the Project shall be operated and Low Income Households shall be qualified and selected for tenancy in strict compliance with "**Leasing Guidelines**" for the Project to be prepared by the Tenant (or Property Management Company) and approved by the City. The Leasing Guidelines and any modifications or amendments to the Leasing Guidelines shall require prior written approval of the Landlord, which approval shall not be unreasonably withheld or delayed. The City Manager shall have the authority to approve the Leasing Guidelines and any such modifications or amendments on behalf of the Landlord. Landlord hereby approves Danco Property Management as the Manager.

6.7. Prevailing Wages. The Tenant acknowledges that Landlord has not made any representation, express or implied, to the Tenant or any person associated with the Tenant regarding whether or not laborers employed relative to the construction of the Project must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to Labor Code Sections 1720 et seq. The Tenant agrees with the Landlord that the Tenant shall assume the responsibility and be solely responsible for determining whether or not laborers employed relative to the construction of the Project, including those employed by subtenants, must be paid the prevailing per diem wage rate for their labor classification.

A. The Tenant, on behalf of itself, its successors, and assigns, waives and releases the City from any right of action that may be available to it pursuant to Labor Code Sections 1726 and 1781. The Tenant acknowledges the protections of Civil Code Section 1542 relative to the waiver and release contained in this Section 6.7, which reads as follows:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."
>
> BY INITIALING BELOW, THE TENANT KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND RELEASES OF THIS SECTION 6.7.

Tenant's Initials

B. Additionally, the Tenant shall indemnify, defend (with counsel acceptable to the Landlord), and hold the Landlord harmless against any claims pursuant to Labor Code Sections 1726 and 1781 arising from this Lease or the construction or operation of the Project.

ARTICLE 7. CONDITION OF PROPERTY

7.1. Condition of Property; Remediation and Indemnity.

A. Tenant acknowledges and agrees that it shall take possession of the Property from Landlord pursuant to this Lease "as is," in its current physical condition, with no warranties, express or implied, as to the physical condition thereof, the presence or absence of any latent or patent condition thereon or therein, including, without limitation, any Hazardous Materials, as defined below, thereon or therein, and any other matters affecting the Property.

B. Tenant shall defend, indemnify, protect and hold harmless the City and its officers, beneficiaries, employees, agents, attorneys, representatives, legal successors and assigns ("Indemnities") from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions (as defined herein), claims, losses, damages, fines, penalties, expenses, Environmental Response Costs (as defined herein) or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys' fees and experts' and consultants' fees), ("Damages") whenever arising, and resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials (as defined herein), at, on, in, beneath or from the Site (sometimes herein collectively referred to as "Contamination"), except if such Damages result from the gross negligence, willful misconduct, fraud, misrepresentation or failure to disclose by the Indemnities. The Developer's defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim or demand regarding the Contamination, at the Developer's sole cost.

C. As used in this Lease, the term "Hazardous Materials" means any substance, material or waste that is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California law; (2) petroleum; (3) asbestos; (4) poly-chlorinated biphenyls; (5) radioactive materials; (6) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 *et seq*. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317); (7) defined as a "hazardous substance" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq*. (42 U.S.C. Section 6903) or its implementing regulations; (8) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 *et seq.* (42 U.S.C. Section 9601); or (9) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property..

7.2 Bona Fide Prospective Purchaser. Landlord and Tenant agree to cooperate and comply with all applicable laws and regulations that may permit either to assert defenses available under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") or qualify as a bona fide prospective purchaser, including but not limited to the following:

A. Providing all legally required notices with respect to the discovery or release of any hazardous substance at the Property.

B. Exercising appropriate care with respect to hazardous substances found at the Property by taking reasonable steps to:

1. Stop any continuing release;

2. Prevent any threatened future release; and

3. Prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.

C. Providing full cooperation, assistance and access to persons that are authorized to conduct response actions or natural resource restoration at the Property (including the cooperation and access necessary for the installation, integrity and maintenance of any complete or partial response action or natural resource restoration at the Property).

D. Maintaining compliance with any land use restrictions established or relied on in connection with a response action at the Property.

E. Not impeding the effectiveness or integrity of any institutional control employed at the Property or in connection with a response action.

F. Complying with any request for information or administrative subpoena issued by the President of the United States of America under CERCLA.

ARTICLE 8. CONSTRUCTION AND LIENS

8.1. Scope of Development. The Property shall be developed as provided in the Scope of Development attached as to the DDA as Attachment No. 4, and consistent with the entitlements for the Project as approved by the City Council.

8.2. Initial Construction of Improvements.

A. Construction Plans. Within the time and in the manner set forth in this Lease, Tenant shall submit to the Landlord for Landlord's approval all construction plans, drawings and related documents required by the City for the development of the Improvements.

B. Construction. Within the time and in the manner set forth in this Lease and the DDA, Tenant shall construct or cause to be constructed the Improvements as required herein and in full conformity with the construction plans, drawings and related documents approved by the City.

C. Timely Completion. Tenant shall take all steps necessary to enable it to commence, and (except as prevented by causes enumerated in Section 18.4 of this Lease) will commence the Construction, and will diligently prosecute and complete such Construction within the times set forth in the Schedule of Performance attached to the DDA as Attachment No. 3. In the event Tenant fails to meet any deadline for the Construction set forth in the Schedule of Performance, after first taking into account any extensions of time required in accordance with the provisions of Section 18.4 of this Lease, and does not cure such failure within thirty (30) days of receipt of written notice from Landlord of such failure, such failure shall constitute a default under Article 16; provided, however, that in the event that the nature of such cure is such that more than thirty (30) days are reasonably required, Tenant shall have such additional period of time as is reasonably required provided that Tenant commences the cure within such thirty (30) days and thereafter diligently and continuously prosecutes the cure to completion.

D. Certificate of Completion. Upon completion of construction of the Improvements, Landlord shall file or cause to be filed in the Official Records of the County of Humboldt a Certificate of Completion with respect to the Improvements in accordance with the terms of the DDA, and Tenant shall deliver to Landlord, at no cost to Landlord, two (2) sets of final as-built plans signed and certified by the project architect.

8.3. Additional Construction on Property.

A. Construction Standards. Any additional building other than the Project erected on any portion of the Property as permitted under this Lease, any remodeling or reconstruction work undertaken on or within any existing building on any portion of the Property, and any alteration of or addition to open spaces or common area, shall at all times be of first class construction and architectural-design and shall be in accordance with plans therefor submitted to and approved by Landlord in accordance with subsection B of this Section 8.3. Any such development or construction of additional buildings, remodeling or reconstruction of any building on any portion of the Property, or alteration of or addition to open spaces or common area, shall at all times meet the requirements of the Lease and shall conform to the approved design concepts, so that the exterior of all such buildings, including, without limitation, exterior elevations and color thereof, and all such other improvements, will be architecturally and aesthetically compatible and harmonious with the other buildings and improvements on the Property to create a uniform general plan for the Property. All construction shall be diligently prosecuted and accomplished without cost or expense to Landlord, and in a good and workmanlike manner.

B. Landlord's Approval of Plans. Following completion of the initial construction of the Project, any construction, reconstruction or remodeling undertaken by Tenant on the Property shall be governed by the following:

1. Tenant shall have the right, without Landlord's consent (but subject to all other provisions of this Lease), to undertake any interior, nonstructural remodeling of the Tenant's Improvements not visible from the outside or affecting exterior appearance and not altering the preexisting location of the Improvements thereon on the Property;

2. If Tenant at any time following the completion of the Project desires to undertake any construction, reconstruction, demolition or remodeling on the Property which is not exempt from Landlord's approval as provided in subsection 9.5.B.(1), above, Tenant shall, prior to the commencement of such work, prepare or cause to be prepared, at its sole expense, and shall submit to Landlord for its review and written approval, plans and specifications for such work, showing, without limitation, scaled elevations, scaled floor plans, design concepts, dimensions, material selection, colors, signing (if any) and such additional information as is reasonably necessary for Landlord to make an informed decision on such submission. Landlord shall approve or disapprove such submitted plans within thirty (30) days of receipt of complete plans and specifications meeting the requirements of this subsection. Failure of the Landlord to specify any objection to such plans and specifications or make a proposal that would add to or change the plans and specifications within such thirty (30) day period shall be deemed to be an approval. The plans and specifications shall comply with this Lease and shall be in compliance with applicable building codes and other laws, regulations and ordinances; and

3. No material changes to the approved plans and specifications shall be made without the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed.

8.4. Protection of Landlord. Nothing in this Lease shall be construed as constituting the consent of Landlord, expressed or implied, to the performance of any labor or the furnishing of any materials or any specific improvements, alterations of or repairs to the Property or any part thereof by any contractor, subcontractor, laborer or materialman, nor as giving Tenant or any other person any right, power or authority to act as agent of or to contract for, or permit the rendering of, any services, or the furnishing of any materials, in such manner as would give rise to the filing of mechanics' liens or other claims against the fee of the Property or the Improvements thereon. Landlord shall have the right at all reasonable times to post, and keep posted, on the Property any notices which Landlord may reasonably deem necessary for the protection of Landlord and of the Property and the Improvements thereon from mechanics' liens or other claims. Tenant shall give Landlord ten (10) days' prior written notice of the commencement of any work to be done on the Property to enable Landlord to post such notices. In addition, Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons doing any work or furnishing any materials or supplies to Tenant or any of its contractors or subcontractors in connection with the Property and the Improvements thereon.

A. Tenant shall keep the Property and the Improvements thereon free and clear of all mechanics' liens and other liens on account of work done for Tenant or persons claiming under it. Tenant agrees to and shall indemnify and save Landlord harmless against liability, loss, damages, costs, attorneys' fees, and all other expenses on account of claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished to Tenant or persons claiming under it.

B. In the event any lien is recorded and not expunged within sixty (60) days of recording, Tenant shall, upon demand, furnish the bond described in California Civil Code Section 8424, or successor statute, which results in the removal of such lien from the Property.

8.5. Notice. Should any claims of lien be filed against the Property or the Improvements thereon, or any action affecting the title to such property, be commenced, the party receiving notice of such lien or action shall forthwith give the other party written notice thereof.

ARTICLE 9. OWNERSHIP OF IMPROVEMENTS AND PERSONAL PROPERTY

9.1. Ownership of Improvements During Term. During the Term of this Lease, the Improvements, including all buildings, structures, fixtures, additions and improvements located on the Property (other than personal property owned by Landlord or others) shall be owned in fee by Tenant; provided, however, that Tenant's rights and powers with respect to such Improvements are subject to the terms and limitations of this Lease and Tenant's interest in such Improvements shall terminate upon the expiration or sooner termination of this Lease. Landlord and Tenant covenant for themselves and all persons claiming under or through them that the Improvements are real property. The parties hereto agree that Tenant shall bear all risk of loss with respect to the Improvements and that the benefits and burdens of ownership of the Improvements are vested in Tenant. It is the intention of the parties that the Tenant be treated as owner of the Improvements for federal income tax purposes and shall have all the rights incidental thereto including, without limitation, the right to claim tax credits and depreciation deductions with respect to the Improvements.

9.2. Landlord's Right on Default by Tenant. In the event of any default (if ongoing after any applicable notice and cure period) on the part of Tenant in performing the terms and provisions of this Lease entitling Landlord to possession of the Property, Landlord shall have the immediate right of possession of all personal property permanently affixed to the Property and the right to assume any ownership or leasehold interest of Tenant in any financed or leased personal property, subject to the rights of third party lenders and equipment lessors.

9.3. Removal and Ownership at Termination. At the expiration or sooner termination of this lease Term, Landlord may, at Landlord's election, require the removal from the Property, at Tenant's sole cost and expense, of all personal property (other than fixtures), as specified in the notice provided for below. A request to take effect at the normal expiration of the Term shall be effected by notice given at least one hundred twenty (120) days before the expiration date. A demand to take effect on any other termination of this lease Term shall be effectuated by notice given concurrently with notice of such termination or within ten (10) days after such termination. Tenant shall be liable to Landlord for costs incurred by Landlord in effecting the removal of personal property, which Tenant has failed to remove after demand pursuant to this section.

A. Tenant may remove any personal property during the Term of this Lease, and within forty-five (45) days after the expiration of the Term of this Lease, that may be removed

without damage to the structural integrity of the Property and the Improvements thereon. Tenant shall repair all damage caused by any such removal.

B. Any personal property owned by Tenant and not removed by Tenant within forty-five (45) days following expiration of the Term shall be deemed to be abandoned by Tenant and shall, without compensation to Tenant, then become the Landlord's property, free and clear of all claims to or against them by Tenant or any other person, but subject to the rights of third party lenders and equipment lessors as to which Landlord has notice.

ARTICLE 10. UTILITIES

10.1. Tenant shall pay when due and shall hold Landlord harmless from any liability for all charges for water, gas, sewage, electricity, telephone and other utility service supplied to the Property.

ARTICLE 11. INSURANCE AND INDEMNITY

11.1. Indemnity. Tenant agrees to protect and does hereby agree to indemnify, defend and hold Landlord, its officials, employees, contractors, invitees, and agents harmless from all demands, liability, claims, actions and damages to any person or property, costs and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or connected with: (i) a default by Tenant of its obligations under this Lease, or (ii) the use or occupancy of the Property by Tenant, its agents, employees, invitees or contractors, other than those attributable to the negligence or willful misconduct of Landlord, its officials, employees, contractors, invitees, or agents.

11.2. Insurance.

A. General. Without limiting Tenant's indemnification of Landlord, the Tenant shall provide and maintain at its own expense during the Term of this Lease the following programs of insurance covering its operations hereunder. Such insurance shall be provided by insurer(s) reasonably satisfactory to the Landlord and evidence of such programs reasonably satisfactory to the Landlord shall be delivered to the Landlord on or before the Commencement Date of this Lease. Such evidence shall specifically identify this Lease and shall contain express conditions that the Landlord is to be given written notice at least thirty (30) days in advance of any modification or termination of any program of insurance.

B. During Construction. During the period of construction, including any demolition, excavation or other preconstruction activities, Tenant shall provide or cause its contractors or subcontractors to furnish insurance in the forms and amounts as set forth in Section 408 of the DDA, which requirements are incorporated herein by this reference.

C. Following Completion of Construction. During the Term of this Lease, following the completion of construction of the Improvements in accordance with the terms of the DDA, Tenant shall provide the following forms and amounts of insurance with respect to the

Property. Such insurance shall be primary to and not contributing with any other insurance maintained by the Landlord, shall name the Landlord, its officials, employees, contractors, invitees, and agents as additional insureds, and shall include, but not be limited to:

1. Fire and Extended Coverage Insurance in All-Risk form, with vandalism and malicious mischief endorsements and an earthquake endorsement (if commercially reasonable to obtain), covering all Improvements on the Property against loss or damage in an amount equal to not less than one hundred percent (100%) of the replacement cost, with such deductible as shall be reasonable in comparison with similar properties. Landlord, its officials, employees, contractors, invitees, and agents shall be made additional insureds on any policy of insurance required by any permanent or construction lender.

2. Comprehensive General Liability Insurance endorsed for premises-operation, contractual and broad form property damage with a combined single limit of not less than ONE MILLION DOLLARS ($1,000,000) per occurrence, with an annual aggregate of THREE MILLION DOLLARS ($3,000,000).

11.3. Review. The liability insurance requirements may be reviewed by Landlord and Tenant every five (5) years, for the purpose of mutually increasing (in consultation with their respective insurance advisors) the minimum limits of such insurance from time to time to limits which shall be reasonable and customary for similar facilities of like size and operation in accordance with generally accepted insurance industry standards, but in no event will Tenant be required to increase the amount of cumulative or single occurrence coverage by more than twenty-five percent (25%) for any five (5) year period. If the parties are unable to mutually agree upon such new limits within thirty (30) days of a written demand by one party upon the other, the determination of an independent insurance advisor selected by the parties' insurance advisors shall be binding upon the parties.

11.4. Proof of Coverage. All policies required hereunder shall be with companies having a Best's A-VII rating. Copies of all policies of insurance or certificates thereof shall be delivered to Landlord. All insurance policies required by this Article 11 shall name Landlord and its officials, employees, contractors, invitees, and agents as additional insureds. As often as any such policies shall expire or terminate, renewal or additional policies shall be procured and maintained in like manner and to like extent. All policies of insurance must contain a provision that the company writing such policy will give both parties thirty (30) days' advance written notice of any cancellation or lapse of the effective date or any reduction in the amounts of insurance. If Tenant fails to purchase, renew or maintain any insurance policies required herein, Landlord shall have the right to so purchase any such insurance and the amount of any such advance by Landlord shall constitute Additional Rent as defined in Section 5.3.

11.5. Other Insurance. Nothing in this Article 11 shall prevent Tenant from carrying insurance of the kind required of Tenant under a blanket insurance policy or policies, which cover other properties owned or operated by Tenant. Tenant shall furnish Landlord with copies of a schedule or makeup of all property affected by any such policy of blanket insurance within thirty (30) days after the filing of such schedule or makeup with the appropriate filing body.

ARTICLE 12. DAMAGE OR DESTRUCTION

12.1. Restoration.

A. Insured Damage. No loss or damage by fire or any other cause resulting in either partial or total destruction of the Improvements now or hereafter located on the Property, or any fixtures, equipment or machinery used or intended to be used in connection with the Property or the Improvements thereon, shall (except as otherwise provided in Sections 12.1.B, or 12.2, below) operate to terminate this Lease or to relieve or discharge Tenant from the payment of any rent, or other amounts payable hereunder, as and when they become due and payable, or from the performance and observance of any of the agreements, covenants and conditions herein contained to be performed and observed by Tenant. Tenant covenants to repair or cause to be repaired and/or reconstruct or cause to be reconstructed any Improvements so damaged or destroyed to the extent, condition and value of such Improvements immediately prior (or if Tenant was in default of its maintenance and repair obligations at the time of such damage or destruction, to the condition and value which would have existed if Tenant had not been in default) to such damage or destruction, assuming full compliance with this Lease. Subject to the rights of any leasehold mortgagee (as defined in Section 16.3. below) Tenant also covenants that all insurance proceeds will be applied to the repair and/or reconstruction of such Improvements. Tenant's failure to make such full repair and restoration under any conditions in which it was elected or required so to do shall constitute default hereunder.

B. Uninsured Damage. Notwithstanding the provisions of Section 12.1.A, if, during the term, (i) the Improvements are totally or partially destroyed from a risk not covered one hundred percent (100%) by the sum of the applicable deductible and the insurance required to be carried by Tenant under this Lease, rendering the premises totally or partially inaccessible or unusable, and (ii) the cost of restoration exceeds ten percent (10%) of the then replacement value of the Improvements, Tenant can elect to terminate this Lease by giving notice to Landlord within thirty (30) days after determining the restoration cost and replacement value. If Tenant elects to terminate this Lease, Landlord, within ninety (90) days after receiving Tenant's notice to terminate, can elect to pay to Tenant, at the time Landlord notifies Tenant of its election, the difference between one hundred percent (100%) of the replacement value of the Improvements and the actual cost of restoration, in which case Tenant shall restore the Improvements. On Landlord's making its election to contribute, Landlord shall deposit immediately the amount of its contribution with the insurance trustee provided for in the following provisions. If Tenant elects to terminate this Lease and Landlord does not elect to contribute toward the cost of restoration as provided in this paragraph, this Lease shall terminate as of the ninety-first (91st) day following Tenant's notice.

C. Establishment of Insurance Trust and Disbursement Procedures. Assuming that Landlord has made the foregoing election to contribute, and there is available to Tenant insurance proceeds for a portion of the cost of the restoration, Tenant shall make the loss adjustment with the insurance company insuring the loss and on receipt of the proceeds shall immediately pay them to a builder's control company, title company, or bank selected by the mutual agreement of the parties (the "**insurance trustee**"). Landlord shall also immediately deposit with the insurance trustee its required contribution toward the cost of restoration. All sums

deposited with the insurance trustee shall be held for the following purposes and the insurance trustee shall have the following powers and duties:

1. The sums shall be paid in installments by the insurance trustee to the contractor retained by Tenant as construction progresses, for payment of the cost of restoration. Any final retention provided for in the contract with such contractor will be paid to the contractor on completion of restoration, payment of all costs, expiration of all applicable lien periods, and proof that the Improvements and the Property are free of all mechanics' liens and lienable claims.

2. Payments shall be made on presentation of certificates or vouchers from the architect or engineer retained by Tenant showing the amount due. If the insurance trustee, in its reasonable discretion, determines that the certificates or vouchers are being improperly approved by the architect or engineer retained by Tenant, the insurance trustee shall have the right to appoint an architect or an engineer to supervise construction and to make payments on certificates or vouchers approved by the architect or engineer retained by the insurance trustee. The reasonable expenses and charges of the architect or engineer retained by the insurance trustee shall be paid by the insurance trustee out of the trust fund.

3. If the sums held by the insurance trustee are not sufficient to pay the actual cost of restoration Landlord and Tenant shall each deposit one-half (1/2) the amount of the deficiency with the insurance trustee within ten (10) business days after request by the insurance trustee indicating the amount of the deficiency.

4. Any undisbursed funds after compliance with the provisions of this paragraph shall be delivered to Landlord to the extent of Landlord's contribution to the fund, and the balance, if any, shall be paid to Tenant.

5. All actual costs and charges of the insurance trustee shall be paid by Tenant.

6. If the insurance trustee resigns or for any reason is unwilling to act or continue to act, the parties shall substitute a new trustee in the place of the designated insurance trustee.

7. Both parties shall promptly execute all documents and perform all acts reasonably required by the insurance trustee to perform its obligations under this paragraph.

12.2. Right to Terminate Upon Destruction Near the End of the Term. If, during the last five (5) years of the term, the Improvements on the Property are totally or partially destroyed, and if the cost of restoration exceeds ten percent (10%) of the replacement cost of Improvements on the Property immediately before the damage or destruction, Tenant may elect to terminate this Lease, provided that Tenant complies with all of the following conditions:

A. Tenant gives Landlord written notice of the damage or destruction within thirty (30) days after the event causing such damage or destruction;

B. Tenant is not in material default under this Lease;

C. Tenant transfers to Landlord all insurance proceeds resulting from the casualty, net of any cost incurred by Tenant in collecting such insurance proceeds and/or in complying with the provisions of Paragraph E. below;

D. Tenant delivers possession of the Property and Improvements thereon to Landlord and quitclaims to Landlord all right, title and interest in the Property and the Improvements thereon; and

E. If Tenant so elects to terminate this Lease under this section, then Tenant shall, at its expense, promptly remove all debris and put the Property in a safe condition. Thereupon, this Lease shall terminate and the parties shall have no further obligations to each other excepting those previously accrued but not satisfied at the time of termination.

12.3. Waiver. The provisions of this Article 12 shall govern the rights of the parties in the event of any full or partial destruction of the Property. Tenant hereby waives the provisions of Civil Code Section 1932(2) and Civil Code Section 1933(4) and any similar successor statute or law with respect to any destruction of the Property or the Improvements thereon.

12.4. Determination of Extent of Destruction, Interference with Use. For the purposes of Section 12.2, the extent of destruction of the Improvements shall be determined by dividing the estimated cost of replacement or restoration as evidenced by estimates prepared by licensed general contractors acceptable to Landlord by the full replacement cost of the Improvements, applying thereto the percentage change in construction cost for the applicable period based upon the Engineering News Record (ENR) average construction cost index for such period, applicable to the San Francisco Bay Metropolitan Area, or in the absence of such index, a similar index prepared for such area.

12.5. Procedures for Repair and Restoration. In the event of any damage or destruction, Tenant shall promptly give Landlord written notice of such damage or destruction and the date on which such damage or destruction occurred. Tenant shall promptly make proof of loss and shall proceed promptly to collect, or cause to be collected, all valid claims which Tenant may have against insurers or others based upon any such damage or destruction. Except as otherwise provided below, amounts received on account of any losses pursuant to insurance policies shall be used and expended for the purpose of fully repairing or reconstructing the portions of the Improvements on the Property which have been destroyed or damaged. Tenant shall commence and complete or cause to be corrected and completed, in a good and workmanlike manner and in accordance with this Lease, the reconstruction or repair of any part of the Improvements on the Property damaged or destroyed, after Landlord has approved Tenant's plans, drawings, specifications and construction schedule for such reconstruction or repair.

ARTICLE 13. CONDEMNATION

13.1. Definitions.

A. "Condemnation" means (1) the exercise of any governmental power in eminent domain, whether by legal proceedings or otherwise, by a condemnor, and (2) a voluntary sale or transfer to any condemnor, either under threat of condemnation or while legal proceedings for condemnation are pending.

B. "Date of taking" means the date the condemnor has the right to possession of the property being condemned.

C. "Award" means all compensation, sums or anything of value awarded, paid or received on a total or partial condemnation.

D. "Condemnor" means any public or quasi-public authority, or private corporation or individual, having the power of condemnation.

13.2. Parties' Rights and Obligations to be Governed by Lease. If during the Term there is any taking of all or any part of the Property, any Improvements on the Property or any interest in this Lease by condemnation, the rights and obligations of the parties shall be determined pursuant to the provisions of this Article 13.

13.3. Total Taking. If the Property is totally taken by condemnation, this Lease shall terminate on the date of taking.

13.4. Effect of Partial Taking. If any portion of the Property or the Improvements thereon is taken by condemnation, this Lease shall remain in effect, except that Tenant may elect to terminate this Lease if the remaining portion of the Property is rendered unsuitable (as defined herein) for Tenant's continued use. The remaining portion of the Property shall be deemed unsuitable for Tenant's continued use if, following a reasonable amount of reconstruction, Tenant's business on the Property could not be operated at an economically feasible level. Tenant must exercise its right to terminate by giving Landlord written notice of its election within ninety (90) days after the nature and extent of the taking have been finally determined. Such notice shall also specify the date of termination, which shall not be prior to the date of taking. Failure to properly exercise the election provided for in this Section will result in this Lease continuing in full force and effect.

13.5. Restoration of the Premises. If, in Tenant's judgment it is reasonably possible and economically feasible to do so, Tenant shall be entitled to use so much of the award as is necessary to restore or to add on to the Property so that the area and approximate layout of the Property will be substantially the same after the date of taking as they were before the date of taking. If it is not reasonably possible and economically feasible to so restore the area and layout of the Property, the remaining provisions of this Article 13 shall govern the rights of the parties. If, after receipt of the award, Tenant fails to promptly commence any reasonably required repair, restoration or reconstruction of the Property and diligently prosecute such repair, restoration or reconstruction to

completion, and such failure is not remedied within thirty (30) days of written notice from the Landlord to Tenant, this Lease may be terminated by the Landlord; provided, however, that in the event that the nature of the cure is such that more than thirty (30) days are reasonably required, Tenant shall have such additional period of time as is reasonably required provided that Tenant commences the required repair, restoration or reconstruction within such thirty (30) days and thereafter diligently and continuously prosecutes it to completion.

13.6. Waiver of CCP Section 1265.130. Each party waives the provisions of the Code of Civil Procedure Section 1265.130 allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Property.

13.7. Award. Subject to the provisions of Section 13.5, and subject to the rights of any leasehold mortgagee, the award for the Property and for the Improvements shall belong to Landlord, except as hereinafter provided. Tenant, or any subtenant, as applicable, shall be entitled to receive: (a) the value of any leasehold improvements, merchandise, personal property, and furniture, fixtures and equipment owned by Tenant that are taken in connection with such condemnation; and (b) loss of goodwill, if agreed to be paid by the condemning authority or awarded by the Court. Tenant shall not be entitled to any compensation based upon the then fair market value of Tenant's interest in this Lease ("bonus value"). Tenant shall have the right to negotiate directly with the condemnor for the recovery of the portion of the award that Tenant is entitled to under this Section 13.7. Nothing in this Section 13.7 shall be deemed a waiver or surrender by Tenant or any subtenant of any right to receive relocation assistance under Government Code Section 7260, et seq., or compensation for moving of personal property under Code of Civil Procedure Section 1263.260.

ARTICLE 14. ASSIGNMENT AND SUBLETTING

14.1. General. Prior to the Completion of the Improvements, defined as issuance of certificates of occupancy for all Improvements to be constructed on the Property, Tenant shall not have the right to assign its rights or obligations under this Lease unless such assignment has been approved in writing by Landlord. Landlord may grant or withhold such approval at its sole discretion. Any permitted assignment shall specifically provide that Developer's assignee agrees to be bound by the provisions of this Lease.

Following the completion of the Improvements, Tenant may not assign its interest in this Lease or sublet all or any portion of the Property or Improvements without Landlord's written consent, except as otherwise hereinafter provided in this Article 14. When such consent is required, it shall not unreasonably be withheld, conditioned or delayed. It shall not be unreasonable for Landlord to condition its approval, among other things, upon the proposed assignee having a financial net worth, according to a current financial statement prepared by a certified public accountant, which is reasonably acceptable to Landlord, upon the proposed assignee having a reputation for and experience and qualifications in operating and maintaining similar properties reasonably comparable to that of the Tenant, and upon the proposed assignee having a first-class business reputation. In evaluating the acceptability of the net worth of a proposed assignee, Landlord may require that the assignee's net worth be sufficient to carry out

the performance of Tenant's obligation under this Lease. Notwithstanding the foregoing, Landlord agrees that it will not withhold its consent to Tenant's assignment of its interest in this Lease if Tenant demonstrates to the reasonable satisfaction of Landlord that such assignee has a net worth equal to or exceeding that of Tenant as of the Commencement Date, has a reputation for and experience and qualifications in operating and maintaining at least three (3) similar properties, and has a first class business reputation in the real estate industry. Landlord's consent to any one assignment or sublease shall not constitute consent to any other assignment or sublease, and shall not constitute a waiver of the right to give or withhold consent in accordance with this Article 14.

14.2. Intentionally Omitted.

14.3. Transfer of Tenant. Prior to the Completion of the Improvements (as defined in Section 14.1), there shall be no change in control of Tenant (other than such changes occasioned solely by the death or incapacity of an individual, or the dilution of a partner's, shareholder's or member's interest pursuant to the provisions of the governing documents for the Tenant's entity) without the prior written approval of Landlord. Landlord may grant or withhold such approval at its sole discretion. For purposes of this section, a “change in control” shall be defined as any transfers of more than 49 percent (49%) in the aggregate of the partnership or membership interests or stock of Tenant. Tenant shall promptly notify Landlord of any and all such changes in control of Tenant. This Lease may be terminated by Landlord if there is any change (voluntary or involuntary) in the control of Tenant in violation of this Lease (other than such changes occasioned solely by the death or incapacity of an individual, or the dilution of a partner's, shareholder's or member's interest pursuant to the provisions of the governing documents for the Tenant's entity) that has not been approved by Landlord prior to the time of such change. Following Completion of the Improvements, there shall be no change in control of Tenant (other than such changes occasioned solely by the death or incapacity of an individual, or the dilution of a partner's or shareholder's or member's interest pursuant to the provisions of the governing documents for Tenant's entity) without the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. Further, following Completion of the Improvements and despite any other provision of this Lease, Landlord's consent is not required for any assignment to an Affiliate (as defined below), as long as the following conditions are met: (a) Landlord receives written notice of the assignment (as well as any documents or information reasonably requested by Landlord regarding the assignment or assignee); and (b) the assignee assumes in writing all of Tenant's obligations under this Lease. An "Affiliate" means any entity that controls, is controlled by, or is under common control with Tenant. For the purposes of this Section 14.3, "control" as it relates to an Affiliate means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of an entity or possession of the right to direct the entity's day-to-day affairs.

Notwithstanding anything to the contrary contained herein, Landlord hereby consents to the following transactions: (i) transfer of the limited partner's interest in Tenant to a limited partner investor; (ii) transfer by the limited partner investor of its limited partner interest in Tenant to an entity in which the limited partner investor or its affiliate manages and controls, directly or indirectly, the management decisions of said entity; (iii) the withdrawal, removal and/or replacement of Tenant's general partner(s) by the limited partner investor, its successors or assigns for a default under the Tenant's partnership agreement provided that Landlord has approved the

replacement general partner, which approval shall not be unreasonably withheld, and (iv) the transfer of the Project or interest in the Tenant pursuant to options or rights of first refusal granted in the Tenant's partnership agreement.

14.4. Subleases.

A. Tenant may sublease all or any portion of the Property upon Landlord's written consent, which shall not be unreasonably withheld, conditioned or delayed.

1. Subleases of Residential Units. Landlord hereby consents to all subleases of individual residential rental units and commercial space constructed on the Property, provided (with respect only to the residential units) that the subtenant is an "Low Income Household" as defined in Section 6.2 of this Lease and the sublease is consistent with the rent and income restrictions set forth therein. Tenant shall provide Landlord with copies of all reports and certifications given to state or federal regulatory agencies concerning the rental and income qualifications of subtenants.

2. Other Subleases. For any sublease other than those described in Section 14.4.A.1. above, it shall not be unreasonable for Landlord to withhold its consent of any proposed sublease if the proposed sublessee intends to use the Property for a use other than those authorized by this Lease or that is prohibited under Article 6 of this Lease. At least thirty (30) days prior to the effective date of any sublease of the Property or of any amendment or assignment of an existing sublease, Tenant shall submit a copy of the sublease, amendment or assignment to the Landlord, together with a certification of Tenant that the sublease or amendment does not grant to the proposed subtenant any option or other right to purchase the Tenant's leasehold interest in the portion of the Property which is the subject of such sublease.

B. In the event that Tenant is unable to make the certifications set forth in subsection A of this Section 14.4, no such sublease, amendment or assignment shall be approved by Landlord. Landlord shall approve or disapprove each such proposed sublease within thirty (30) calendar days of receipt of a copy of the sublease and if not approved or disapproved within such time, the sublease, amendment or assignment shall be deemed approved, but only if the written transmittal of the sublease contains a prominent notice in bold face type that failure to approve or disapprove the sublease within thirty (30) calendar days will result in the sublease being deemed approved. Tenant agrees to promptly provide Landlord with any information reasonably requested by Landlord relating to the identity of any proposed subtenant, the nature of such subtenant's business and the proposed subtenant's financial responsibility.

C. Each sublease entered into on the Property shall comply with the applicable provisions of the Lease. No sublease shall have a term, which extends beyond the Term of this Lease.

14.5. Nondisturbance Agreement. If Landlord has consented to a sublease, then Landlord shall, at Tenant's request, execute and deliver to any subtenant a recognition and nondisturbance agreement which shall assure such subtenant, so long as it is not in default under its sublease, the

quiet possession of its subleasehold during the term thereof, notwithstanding Tenant's default or any termination of this Lease, provided that, except to the extent expressly agreed upon by Landlord in writing in such nondisturbance agreement: (a) no sublease shall be for a term which exceeds the Term of this Lease; (b) no sublease shall provide for prepaid rent (excepting an advance payment of the first month's rent and no more than an additional two month's rent as a security deposit); (c) all rental terms shall be reasonable and at prevailing market rates for comparable properties; and (d) no greater burdens are placed upon the Landlord in the sublease than are undertaken by the Landlord under this Lease. To obtain the recognition and nondisturbance agreement, Tenant shall provide Landlord with a fully executed copy of any sublease along with a written request for such agreement.

ARTICLE 15. TENANT DEFAULTS AND LANDLORD'S REMEDIES

15.1. Defaults by Tenant. Tenant shall be in default under the Lease if:

A. Tenant is at any time in default in the payment of rent or any other monetary sum called for by this Lease for more than ten (10) days following written notice from Landlord to Tenant; or

B. Tenant fails to commence the construction of the improvements on the Site as required by this Agreement for a period of ninety (90) days after written notice thereof from the City; or

C. Tenant abandons or substantially suspends construction of improvements on the Site for a period of ninety (90) days after written notice of such abandonment or suspension from City, subject to force majeure as set forth in Section 17.4 hereof; or

D. Tenant transfers, or suffers any involuntary transfer of the Site or any part thereof in violation of this Agreement; or

E. Tenant assigns, sells, transfers, conveys, encumbers, hypothecates or leases the whole or any part of the Property or any improvement constructed thereon in violation of this Lease; or

F. Tenant fails to perform any other material term or provision of this Lease, including but not limited to compliance with the rent and income restrictions for the residential units as set forth in Section 6.2.B ninety (90) days after written notice thereof from the City; or

G. There occurs, in violation of this Lease, any change in control of Tenant or of a part thereof, or any other act or transaction involving or resulting in a change in the identity of the parties in control of Tenant or the degree of such control; or

15.2. Remedies. Subject to the rights of any leasehold mortgagees permitted under Article 16 of this Lease, upon the occurrence of any default, in addition to any and all other rights or remedies of Landlord hereunder, or by law or in equity provided, Landlord shall have the sole option to exercise the following rights and remedies:

A. Prior to issuance of the Certificate of Completion, Landlord may terminate this Lease, reenter and take possession with respect to the Property, provided that Landlord shall first pay to Tenant the City shall pay to the Developer in cash an amount equal to: (i) The costs actually incurred by the Developer for on-site labor and materials for the construction of the improvements existing on the Site at the time of the repurchase, reentry and repossession, exclusive of amounts financed; less (ii) any gains or income withdrawn or made by the Developer from the Site or the improvements thereon; and less (iii) the amount of liens on the Site, and any unpaid assessments against the Site which are assumed by the City. Following such payment to Tenant, all Tenant's rights in the Property and in all Improvements shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Property and all Improvements.

B. Following issuance of the Certificate of Completion, Landlord may terminate this Lease by giving Tenant notice of termination. On the giving of the notice, all Tenant's rights in the Property and in all Improvements shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Property and all Improvements in broom-clean condition; and, subject to the provisions in Section 15.2.B, below, respecting the right of certain subtenants to remain, Landlord may reenter and take possession of the Property and all Improvements and eject all parties in possession or eject some and not others, or eject none. Termination under this paragraph shall not relieve Tenant from the payment of any sum then due to Landlord or from any claim for damages previously accrued or then accruing against Tenant.

C. Without terminating this Lease, Landlord may at any time and from time to time relet the Property and Improvements thereon or any part or parts of them for the account and in the name of Tenant or otherwise. Landlord may at Landlord's election eject all persons or eject some and not others, or eject none; provided, however, that Landlord shall not have the right to eject any subtenant who is not in default under a sublease whose lease has been duly submitted and approved (if required) in writing by Landlord pursuant to Section 15.3 of this Lease and is not then in default. Any reletting may be for the remainder of the Term or for a longer or shorter period. Landlord may execute any leases made under this provision either in Landlord's name or in Tenant's name, and shall be entitled to all rents from the use, operation, or occupancy of the Property or Improvements thereon, or both. Tenant hereby appoints Landlord its attorney-in-fact for purpose of such leasing. Tenant shall nevertheless pay to Landlord on the due dates specified in this Lease the equivalent of all sums required of Tenant under this Lease, less the revenue received by Landlord from any reletting or attornment, plus Landlord's expenses, including (by way of example), but not limited to, remodeling expenses, commissions and advertising costs. No act by or on behalf of Landlord under this provision shall constitute a termination of this Lease unless Landlord gives Tenant notice of termination.

C. Reletting by Landlord pursuant to Paragraph B, above, does not waive Landlord’s right to thereafter terminate this Lease and all of Tenant's rights in or to the leased Property.

15.3. Landlord's Right to Cure Tenant's Default. Landlord, at any time after Tenant commits a default which Tenant has failed to cure within the time established therefor, may cure the default at Tenant's cost. If Landlord at any time, by reason of Tenant's default, pays any sum,

the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date, shall bear interest at the rate provided in Section 4.5 from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. The sum, together with interest on it, shall be considered Additional Rent.

ARTICLE 16. MORTGAGEE PROTECTION PROVISIONS

16.1. Definitions. As used in this Article 16:

A. The term "Institutional Investor" shall refer to a savings bank, savings and loan association, commercial bank, trust company, credit union, insurance company, college, university, real estate investment trust, private equity provider, or pension fund. The term "Institutional Investor" shall also include governmental entities, other lenders of substance, which perform functions similar to any of the foregoing, and which have assets in excess of FIFTY MILLION DOLLARS ($50,000,000) at the time the leasehold mortgage or similar loan is made.

B. The term "Leasehold Mortgage" shall include a mortgage, a deed of trust or other security instrument by which Tenant's leasehold estate is mortgaged, conveyed, assigned or otherwise transferred to secure a debt or other obligation.

C. The term "Leasehold Mortgagee" or "mortgagee" shall refer to a holder of a leasehold mortgage with respect to which the notice provided for by Section 16.4, below, has been given and received and as to which the provisions of this Article 16 are applicable.

16.2. Leasehold Mortgages. Tenant may grant one or more Leasehold Mortgages encumbering Tenant's interest in the Improvements and/or Tenant's leasehold interest under this Lease to an institutional lender only with Landlord's prior written consent which shall not be unreasonably withheld, conditioned or delayed.

A. The Leasehold Mortgage shall cover no interest in any real property other than Tenant's interest in the Improvements or some portion thereof, and the leasehold estate of Tenant under this Lease. The Leasehold Mortgage shall state on its face that it does not encumber in any way Landlord's fee interest in the Property and Landlord's interest under this Lease.

B. Prior to the filing of a Certificate of Completion (as defined in the DDA) with respect to the Improvements, Leasehold Mortgages may be made only with the terms and requirements set forth in Sections 416-420 of the DDA.

16.3. No Subordination of Fee. Landlord's reversionary fee interest in the Property and rights and interests in the Property and this Lease, including without limitation the affordability restrictions and Landlord's right to receive any sums from Tenant, shall not be subordinated to the rights of any lien, mortgage or security interest (including without limitation, the rights of any Leasehold Mortgagees) granted in Tenant's interest under this Lease or granted by Tenant, provided, however, that such Leasehold Mortgagee shall in no way be obligated by the provisions

of this Agreement to construct or complete the improvements or to guarantee such construction or completion, nor shall any covenant or any other provision in the Ground Lease for the Site be construed so to obligate such holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement. Notwithstanding the foregoing, a Leasehold Mortgagee shall have all of the rights set forth in the Leasehold Mortgage, as approved by Landlord in accordance with Section 16.2 herein, to the extent that such rights are not inconsistent with the terms of this Lease, including the right to commence an action against Tenant for the appointment of a receiver and to obtain possession of the Property under and in accordance with the terms of said Leasehold Mortgage; provided, that subject to Leasehold Mortgagee's rights and obligations under Section 16.9 below, all obligations of Tenant hereunder shall be kept current, including but not limited to the payment of sums owing under this Lease and curing of all defaults hereunder. In addition, the City Manager of Landlord or the City Manager's designee, in his or her discretion, may agree to subordinate the affordability restrictions as set forth in Section 6.2.B.2.c.

16.4. Notice to Landlord. Tenant shall cause each Leasehold Mortgagee to give Landlord the right to receive notices of any event of default by Tenant under the applicable Leasehold Mortgage and the right to cure any such default in the same period of time as is given to Tenant thereunder plus an additional ten (10) business days with respect to those defaults that are curable. If and to the extent Tenant fails to cure any such default, and Landlord exercises its right to cure the same, Tenant shall reimburse Landlord for all of Landlord's reasonable costs and expenses, including without limitation reasonable attorneys' fees which shall be considered Additional Rent. Landlord may record in the Official Records a request for notice of default.

In the event a Leasehold Mortgagee intends to negotiate a deed in lieu of foreclosure as a result of Tenant's default, Leasehold Mortgagee shall notify the Landlord, and Landlord shall have the right to assume Tenant's leasehold mortgage, curing all defaults, and Tenant shall convey its interests in Improvements to Landlord. After conveyance, Tenant shall have no further obligation under the Lease except for those obligations that expressly survive this Lease.

16.5. Notice to Leasehold Mortgagee. Landlord, if requested by Leasehold Mortgagee, shall mail to Leasehold Mortgagee a duplicate copy of any and all notices Landlord may from time to time give to or serve on Tenant pursuant to or relating to this Lease. Tenant shall at all times keep Landlord informed in writing of the name and mailing address of such Leasehold Mortgagee and any changes in Leasehold Mortgagee's mailing address. Any notices or other communications permitted by this or any other Section of this Lease or by law to be served on or given to Leasehold Mortgagee by Landlord shall be deemed duly served on or given to Leasehold Mortgagee by deposit in the United States mail, certified, return receipt requested or by overnight courier, return receipt, addressed to Leasehold Mortgagee at the last mailing address for Leasehold Mortgagee furnished in writing to Landlord by Tenant or Leasehold Mortgagee. The date of notice shall be the date marked on the return receipt.

16.6. Leasehold Mortgagee's Rights. Leasehold Mortgagee shall have the right, without further consent of Landlord, at any time during the Term of this Lease to:

A. Do any act or thing required of Tenant under this Lease, and any such act or thing done and performed by Leasehold Mortgagee shall be as effective to prevent a forfeiture or loss of Tenant's rights under this Lease as if done by Tenant itself;

B. Do any act or thing required of Tenant, and enforce the obligations of Tenant, under any regulatory agreement recorded against Tenant's leasehold estate in connection with the Leasehold Mortgage;

C. Transfer, convey or assign the right, title and interest of Tenant in and to the leasehold estate created by this Lease to any purchaser at any foreclosure sale, whether the foreclosure is conducted pursuant to court order or pursuant to a power of sale contained in a Leasehold Mortgage; and

D. Acquire and succeed to the right, title and interest of Tenant under this Lease by virtue of any foreclosure proceeding, whether the foreclosure is conducted pursuant to a court order or pursuant to a power of sale contained in a Leasehold Mortgage, or by virtue of a transfer in lieu of foreclosure ("**Foreclosure**") and, following such Foreclosure, transfer, convey or assign the right, title and interest of Tenant in and to the leasehold estate granted by this Lease to any third party.

16.7. Obligations of Leasehold Mortgagee Upon Acquisition of Leasehold Estate. If the holder of a Leasehold Mortgage acquires the leasehold estate created hereunder or otherwise acquires possession of the Property and Improvements pursuant to available legal remedies, Landlord will look to such holder to perform the obligations of Tenant hereunder only from and after the date of foreclosure or possession and will not hold such holder responsible for the past actions or inactions of the prior Tenant. Notwithstanding the foregoing, (i) on and after the date of such Foreclosure or possession, such holder shall be required to perform and abide by each and all of the obligations of Tenant under this Lease and (ii) on and after the date of such Foreclosure or possession, Landlord shall have the right to enforce each and all of the provisions of this Lease against such holder. Nothing herein is intended or shall be construed to limit or restrict Landlord's rights and remedies against any prior Tenant, provided that Landlord's pursuit of such remedies shall not affect the rights of the holder of any Leasehold Mortgage to the use, enjoyment or operation of the Property and Improvements.

16.8. No Modification or Termination of Lease Without Leasehold Mortgagee's Consent. Tenant and Landlord hereby expressly stipulate and agree that they will not modify this Lease in any way that would impair the security of a Leasehold Mortgage nor will Tenant surrender its interest in this Lease without the written consent of Leasehold Mortgagee. Tenant and Landlord further agree that each will not take advantage of any provisions of the United States Bankruptcy Code that would result in a termination of this Lease or make it unenforceable.

16.9. Right of Leasehold Mortgagee to Cure Default. Before Landlord may terminate this Lease because of any default under or breach of this Lease by Tenant, Landlord must (i) give written notice of the default or breach (the "**Initial Default Notice**") and (ii) give written notice of the failure of the Tenant to cure the default or breach (the "**Second Default Notice**") to Leasehold

Mortgagee concurrently with the transmittal of such notices to Tenant and afford the Leasehold Mortgagee the opportunity to:

A. Cure the breach or default (including the payment of all accrued and delinquent Rent) at any time prior to the sixtieth (60^{th}) day after service on Leasehold Mortgagee of the Second Default Notice where the default can be cured by the payment of money to Landlord or some other person;

B. Cure the breach or default within ninety (90) days after service on Leasehold Mortgagee of the Second Default Notice where the breach or default must be cured by something other than the payment of money and can reasonably be cured within that time; or

C. Cure the breach or default in such reasonable time as may be required where something other than the payment of money is required to cure the breach or default and cannot be reasonably cured within ninety (90) days after service on Leasehold Mortgagee of the Second Default Notice, provided that acts to cure the breach or default are commenced within that time period after service of the Second Default Notice on Leasehold Mortgagee by Landlord and are thereafter diligently and continuously pursued by Leasehold Mortgagee to completion.

If in order to complete the cure of the default or breach Leasehold Mortgagee requires access to the Property the foregoing cure period shall not commence until Leasehold Mortgagee obtains possession of the Property, provided that the Leasehold Mortgagee diligently seeks to obtain such possession by a foreclosure action or otherwise and diligently pursues such action all within the time periods set forth in Section 17.10 below. If Leasehold Mortgagee completes the cure of the default or breach in a timely and proper manner, Landlord shall accept the cure as fulfilling the terms of this Lease.

16.10. Foreclosure in Lieu of Curing Default. Notwithstanding any other provision of this Lease, a Leasehold Mortgagee may forestall termination of this Lease by Landlord for a default under or breach of this Lease by Tenant by commencing proceedings to foreclose its Leasehold Mortgage, whether the Foreclosure is conducted pursuant to a court order or pursuant to a power of sale contained in a Leasehold Mortgage, or by virtue of a transfer in lieu of foreclosure. Commencement of the Foreclosure shall not, however, forestall termination of this Lease by Landlord for the default or breach by Tenant unless:

A. It occurs within sixty (60) days after service on Leasehold Mortgagee of the Second Default Notice;

B. It is diligently and continuously pursued to completion; and

C. Leasehold Mortgagee keeps and performs all of the terms, covenants and conditions of this Lease (including the payment of Rent, including past due Rent, under this Lease) requiring the payment or expenditure of money by Tenant accruing after commencement of the Foreclosure until the Foreclosure is complete or is discharged by redemption, satisfaction, payment or conveyance of the leasehold estate to Leasehold Mortgagee.

16.11. Assignment of Lease Upon Foreclosure. Provided that a Leasehold Mortgagee gives written notice of transfer to Landlord setting forth the name and address of the transferee as well as the effective date of the transfer, the written consent of Landlord shall not be required for transfer of Tenant's right, title and interest under this Lease to:

A. Any purchaser, which includes the Leasehold Mortgagee, at a foreclosure sale of a Leasehold Mortgage, whether the foreclosure is conducted pursuant to court order or pursuant to a power of sale in the instrument creating the Leasehold Mortgage; or

B. A purchaser from Leasehold Mortgagee after foreclosure where Leasehold Mortgagee was the purchaser of Tenant's interest at the foreclosure sale of the Leasehold Mortgage, or acquired Tenant's interest by transfer in lieu of foreclosure. The purchase from the Leasehold Mortgagee shall be subject to all the terms and conditions of this Lease. The Leasehold Mortgagee, the purchaser at a foreclosure sale, or the purchaser from the Leasehold Mortgagee shall be subject to all the terms and conditions of this Lease except that (i) the time for performance of any unperformed acts required by Article 15 of this Lease shall be extended for that period equal to the delay in performance of the act caused by Tenant's inability or failure to perform the act and the time required to transfer the Lease to the purchaser at a foreclosure sale and/or to the purchaser from Leasehold Mortgagee, (ii) the performance of any acts required by this Lease that have already been performed shall be excused, and (iii) Leasehold Mortgagee (and Leasehold Mortgagee only) shall be able to absolutely assign or transfer this Lease regardless of the date of assignment without the approval or consent of Landlord.

16.12. New Lease to Leasehold Mortgagee. Notwithstanding any other provision of this Lease, if this Lease terminates because of any default which cannot be cured by Leasehold Mortgagee, including without limitation, the insolvency or bankruptcy of Tenant or if this Lease terminates for any reason, then Landlord shall, within thirty (30) days after the request pursuant to Subsection A, below, is received, execute and deliver a new Lease for the Property and Project to the Leasehold Mortgagee, provided:

A. A written request for the new Lease is served on Landlord by Leasehold Mortgagee within thirty (30) days after service on Leasehold Mortgagee of notice that the Lease has terminated and Landlord agrees to give Leasehold Mortgagee notice of such termination.

B. The new Lease (i) is for a term ending on the same date the Term of this Lease would have ended had not this Lease been terminated, and (ii) contains the same covenants, conditions and provisions as are contained in this Lease, except that Leasehold Mortgagee (and Leasehold Mortgagee only) shall be able to absolutely assign or transfer the New Lease regardless of the date of assignment without the approval or consent of Landlord.

C. After termination of the Lease but prior to the expiration of the period within which Leasehold Mortgagee has to request and receive a new Lease, Landlord shall not terminate any existing subleases or enter into any new subleases for the Property or Project and Landlord shall account to Leasehold Mortgagee for all subtenant rents during such period.

D. The new Lease shall be subject to all existing subleases under which each such sublessee is not in default and shall be assignable by Leasehold Mortgagee without further approval or consent by Landlord provided the conditions of this Section are satisfied.

E. The new Lease shall:

1. Extend the time for performance of any unperformed acts required by Article 16 of this Lease for such period as is equal to the delay in performance of the act caused by Tenant's inability or failure to perform the act and the time required to terminate this Lease, execute a new Lease to Leasehold Mortgagee and Leasehold Mortgagee's timely assignment of such new Lease; and

2. Excuse the performance of any act required by Article 15 of this Lease that has already been performed, but Leasehold Mortgagee and Leasehold Mortgagee's assignee as Tenant under the new Lease shall be liable for payment of all costs and expenses incurred in the performance of any act required by Article 15 of this Lease, whether performed before or after execution of the new Lease, which is claimed as a lien against the Property.

F. The new Lease and the Leasehold Mortgage shall have the same priority as the original Lease and the Leasehold Mortgage on the original Lease, and any intervening liens shall not have any priority over the new Lease or Leasehold Mortgage.

G. Leasehold Mortgagee, on execution of the new Lease, shall pay to Landlord all of Landlord's reasonable costs and expenses, including reasonable attorney's fees and court costs incurred in terminating this Lease, recovering possession of the Property from Tenant and preparing the new Lease.

16.13. No Merger of Estates. During the existence of any Leasehold Mortgage, if the same person or entity holds the leasehold estate created by this Lease and Landlord's reversionary interest or fee interest in the Property, such estates shall remain separate and there shall be no merger without the consent of each Leasehold Mortgagee.

16.14. Amendments for Benefit of Leasehold Mortgagee. Landlord and Tenant shall consider reasonably and in good faith including in this Lease by suitable amendment from time to time any provision which may reasonably be requested by a Leasehold Mortgagee or proposed Leasehold Mortgagee for the purpose of implementing the mortgagee-protection provisions contained in this Article and allowing such Leasehold Mortgagee reasonable means to protect or preserve its Leasehold Mortgage on the occurrence of a default under the terms of this Lease; provided, however, that such amendment shall not have a material adverse effect on Landlord's rights or obligations under this Lease.

16.15. Restriction on Landlord's Right to Encumber its Interest. Landlord shall not mortgage, hypothecate, pledge or encumber its interest in the Property or any part thereof without the prior written consent of the holder of a Leasehold Mortgage, unless there is an express subordination of the new lender's lien on Landlord's interest in the Property to this Lease, which subordination shall be in a form acceptable to the holder of such Leasehold Mortgage.

16.16. Restriction on Subordination of Tenant's Interest. Any subordination or attempted subordination of this Lease by Tenant to any mortgage, deed of trust, encumbrance or other security interest in Landlord's interest in the Property or any part thereof shall be void *ab initio* and shall have no force or effect unless first agreed to in writing by the holder of any Leasehold Mortgage.

16.17. Multiple Leasehold Mortgages. Where there is a right herein to be exercised by a Leasehold Mortgagee and there exists more than one Leasehold Mortgage, the right may be exercised in the order of priority of each Leasehold Mortgage.

ARTICLE 17. MISCELLANEOUS

17.1. Holding Over. If Tenant shall hold over the leased Property after the expiration of the Term hereof with the consent of Landlord, either express or implied, such holding over shall be construed to be only a tenancy from month to month, subject to all the covenants, conditions and obligations contained in this Lease. Tenant hereby agrees to pay to Landlord as monthly rental one-twelfth (1/12) of the amount which is one hundred twenty-five percent (125%) of the total amounts (inclusive) paid from Tenant to Landlord in the year prior to the expiration of the Term.

17.2. Attorneys' Fees. In the event that any action or arbitration is brought by either party hereto as against the other party hereto for the enforcement or declaration of any right or remedies in or under this Lease or for the breach of any covenant or condition of this Lease, then and in that event the prevailing party shall be entitled to recover, and the other party agrees to pay all fees and costs to be fixed by the court or arbitrator therein including, but not limited to, attorneys' fees.

17.3. Quiet Possession. Landlord agrees that Tenant, so long as Tenant is not in default under this Lease and is paying the rent and performing the covenants and conditions of this Lease, shall quietly have, hold and enjoy the leased Property throughout the Term hereof without interruption or disturbance from Landlord or any other persons claiming by, through or under Landlord; and Landlord warrants to Tenant that as of the Commencement Date of said lease term, there were no existing tenancies on the leased Property.

17.4. Force Majeure. Except as to the payment of rent, in addition to the specific provisions of this Lease, neither of the parties hereto shall be chargeable with, liable for, or responsible to, the other for anything or in any amount for any delays due to war; act of terrorism; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; pandemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of another party; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the Landlord shall not excuse performance by the Landlord); or any other causes whether similar or dissimilar to the foregoing which is beyond the reasonable control or without the fault of the party claiming an extension of time to perform, and any delay due to said causes or any of them shall not be deemed a breach of or default in the performance of

this Lease. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice.

17.5. Notices. Any notice to be given or other document to be delivered by either party to the other hereunder shall be in writing and shall be deemed to have been duly given and received (i) upon personal delivery, (ii) as of the third business day after mailing by United States registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below, (iii) the immediately succeeding business day after deposit with Federal Express or other equivalent overnight delivery system or (iv) upon electronic transmission to the principal offices of Landlord and Tenant, and addressed to the party for whom intended, as follows:

Landlord: City of Blue Lake
111 Greenwood Road
Blue Lake, CA 95525-0458
Attention: Amanda Mager, City Manager

Tenant: _____, c/o Danco Communities
5251 Ericson Way
Arcata, CA 95521
Attention: _____

Any party hereto may from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified.

17.6. Waiver. No waiver of any breach of any of the terms, covenants, agreements, restrictions or conditions of this Lease shall be construed to be a waiver of any succeeding breach of the same or other terms, covenants, agreements, restrictions and conditions hereof.

17.7. Surrender. Upon the expiration or sooner termination of the Term of this Lease, and notwithstanding anything herein contained to the contrary, Tenant shall surrender to Landlord all and singular the leased Property, together with the Improvements then situated thereon, in good condition and repair, except for reasonable wear and tear.

17.8. Binding. Subject to the restrictions set forth herein regarding assignment of the leasehold estate, each of the terms, covenants and conditions of this Lease shall extend to and be binding on and shall inure to the benefit of not only Landlord and Tenant, but to each of their respective heirs, administrators, executors, successors and assigns. Whenever in this Lease reference is made to either Landlord or Tenant, the reference shall be deemed to include, wherever applicable, the heirs, administrators, executors, successors and assigns of such parties, the same as if in every case expressed.

17.9. Landlord's Right to Enter Property. Landlord and its authorized representatives shall have the right to enter the Property at all reasonable times, after giving Tenant three (3) business days' prior written notice, for any of the following purposes: to determine whether the Property is in good condition and whether Tenant is complying with its obligations under this Lease; to do any necessary maintenance and to make any restoration to the Property that Landlord has the right or obligation to perform; to serve, post or keep posted any notices required or allowed under the provisions of this Lease; to do any necessary maintenance and to make any restoration to the Property that Landlord has the right or obligation to perform; to serve, post or keep posted any notices required or allowed under the provisions of this Lease; to post "for sale" signs at any time during the term, so long as such signs make it clear at first impression it is Landlord's interest alone that is for sale; to post "for rent" or "for lease" signs during the last one (1) year of the term, or during any period while Tenant is in default; to show the Property to prospective brokers, agents, buyers, tenants or persons interested in an exchange, at any time during the term; and to do any act or thing necessary for the safety or preservation of the Property if any excavation or other construction is undertaken or is about to be undertaken on any adjacent property or nearby street.

A. Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the Property as provided in this section other than those caused by the negligence or willful misconduct of Landlord, its agents, employees or contractors.

B. Tenant shall not be entitled to an abatement or reduction of rent if Landlord exercises any rights reserved in this section.

17.10. Disclaimer of Partnership. The relationship of the parties hereto is that of Landlord and Tenant, and it is expressly understood and agreed that Landlord does not in any way nor for any purpose become a partner of Tenant or a joint venturer with Tenant in the conduct of Tenant's business or otherwise.

17.11. Memorandum. A short form Memorandum of this Lease ("**Memorandum**") shall be recorded within five (5) working days after the time this Lease is executed. The Parties agree to make any amendment or modification of the Memorandum in such form as shall be reasonably required (i) for Tenant to be able to obtain a leasehold title policy insuring Tenant's leasehold interest in the Property, or (ii) by any leasehold mortgagee.

17.12. Quitclaim. At the expiration or earlier termination of this Lease, Tenant shall execute, acknowledge and deliver to Landlord within thirty (30) days after written demand from Landlord to Tenant, any quitclaim deed or other document required by any reputable title company to remove the cloud of this Lease from the real property subject to this Lease.

17.13. Interpretation. The titles to the paragraphs of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of this Lease.

17.14. Covenants and Conditions. Each term and each provision, including, without limitation, the obligation for the payment of rent, to be performed by Tenant or Landlord, as the case may be, shall be construed to be both a covenant and a condition of this Lease.

17.15. Integration. This Lease and the exhibits and documents of both incorporated by reference, constitutes the entire agreement between the parties and there are no conditions, representations or agreements regarding the matters covered by this Lease which are not expressed herein.

17.16. Estoppel Certificate. If upon any sale, assignment or hypothecation of the Property or the land thereunder by Landlord an estoppel certificate shall be required from Tenant, Tenant agrees to deliver, within ten (10) business days after written request therefor by Landlord, a statement in recordable form addressed to any such proposed mortgagee or purchaser, or to Landlord, in a form requested by Landlord's mortgagee or purchaser, certifying that this Lease is unmodified and is in full force and effect (if such be the case), certifying the commencement and termination dates of the lease term, certifying that there has been no assignment or subletting of this Lease (or providing detail regarding any such assignment or subletting), and that there are no defenses or offsets hereto (or stating those claimed by Tenant) and containing such other information as may reasonably be requested by the party to whom such certificate is addressed. In the event Tenant fails to deliver such estoppel certificate to Landlord within the ten (10) day period provided above, it shall be deemed that this Lease is in full force and effect and that Tenant has no defenses or offsets against Landlord.

17.17. Landlord's Right to Sell. Landlord shall have the right to sell its fee estate in the Property and assign its interest in this Lease without limitation; provided, however, that any such sale shall be subject to this Lease. Upon any such conveyance, Landlord shall automatically be relieved of any obligations under this Lease other than those obligations, which accrued prior to the date of such conveyance. Landlord shall also have the right to mortgage, hypothecate or otherwise pledge its interest in the Property and this Lease.

17.18 Amendments to This Lease. Landlord and Tenant agree to mutually consider reasonable requests for amendments to this Lease that may be made by either of them, subtenants of Tenant, lending institutions or bond counsel or financial consultants to Landlord or Tenant, provided such requests are consistent with this Lease and would not materially alter the basic business terms included herein. No amendment hereto shall be effective unless in writing and signed by the parties hereto.

17.19 Time is of the Essence. Time is of the essence in the performance of the terms and conditions of this Lease.

[Signatures continued on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their lawfully authorized representatives.

LANDLORD:

CITY OF BLUE LAKE, a municipal corporation of the State of California

By:_____
Amanda Mager, City Manager

APPROVED AS TO FORM:

_____
City Attorney

TENANT:

_____, a California limited partnership

By:

EXHIBIT A

Property Legal Description

ATTACHMENT NO. 6

MEMORANDUM OF GROUND LEASE

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO: **City of Blue Lake** **111 Greenwood Road** **Blue Lake, California 95525-0458** **Attention: City Manager**	

This document is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

MEMORANDUM OF GROUND LEASE
(Mixed Use Development Project)

This **MEMORANDUM OF GROUND LEASE (Mixed Use Development Project)** ("Memorandum") is dated as of _____, 20__ by and between the City of Blue Lake, a municipal corporation of the State of California ("Landlord"), and **_____,** a California limited partnership ("Tenant").

RECITALS

A. Landlord and Tenant have entered into that certain unrecorded Disposition and Development Agreement, dated as of June 28, 2022 ("Disposition and Development Agreement" or "CCA"). A copy of the Disposition and Development Agreement is on file with Landlord as a public record.

B. In accordance with and in furtherance of the Disposition and Development Agreement, Landlord and Tenant have entered into that certain Ground Lease (Mixed Use Development Project) ("Ground Lease") dated concurrently herewith pursuant to which Landlord has conveyed a ground leasehold interest in that certain parcel of real property, which is legally described in Attachment No. 1 attached hereto and incorporated herein by reference ("Property") to Tenant and Tenant has agreed to construct, develop and operate a mixed use development thereon that will consist of (i) approximately 20,000 square feet of ground floor light industrial/retail space for land use types such as light manufacturing and processing, distribution and associated warehousing, commercial services and professional offices and services, and (ii) forty (40) residential units ranging from 450 to 1,200 square feet on upper floors above the light industrial/retail space, thirty-nine (39) of which are to be rented at affordable rents to low income seniors and/or families, as more specifically described in the Ground Lease.

C. Copies of the Disposition and Development Agreement and Ground Lease are available for public inspection at Landlord's office at 111 Greenwood Road, Blue Lake, California.

D. The term of this Ground Lease ("Term") shall commence on the date of recordation of the Memorandum of Ground Lease in the Official Records ("Commencement Date"), and shall continue thereafter until the fifty-seventh (57th) anniversary of the date of this Memorandum (the "Initial Term", provided that if Tenant is not in material default under the Lease and all applicable notice and cure periods have expired, the Tenant shall have the option to extend the term for an additional thirty-five (35) years beyond the Initial Term (the "**Extended Term**") provided (i) the housing units remain subject to the affordability requirements set forth in the Ground Lease for the Extended Term, and (ii) the Tenant has maintained the Property in good working order in accordance with the terms of the Ground Lease.

E. The annual rent payable pursuant to the Ground Lease Base Rent, plus any Additional Rent, which is provided for and fully described in the Ground Lease.

F. The Ground Lease provides that a memorandum of the Ground Lease shall be executed and recorded in the Official Records of Humboldt County, California.

IN WITNESS WHEREOF, the undersigned have executed this Ground Lease as of the date first above written.

TENANT

_____, a California limited partnership

By:

LANDLORD

CITY OF BLUE LAKE
a municipal corporation of the State of California

By:_____
Amanda Mager, City Manager

APPROVED AS TO FORM:

_____
City Attorney

ATTACHMENT NO. 7

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Blue Lake
111 Greenwood Road
Blue Lake, CA 95525-0458
Attn: City Clerk

NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY

Important notice to owners, purchasers, tenants, lenders, brokers, escrow and title companies, and other persons, regarding affordable housing restrictions on the real property described in this Notice: Restrictions have been recorded with respect to the property described below (referred to in this Notice as the "Property") which restrict the price and terms at which the Property may be sold or rented. These restrictions may limit the sales price or rents of the Property to an amount which is less than the fair market value of the Property. These restrictions also limit the income of persons and households who are permitted to purchase and rent the Property.

Title of Document Containing Affordable Housing Restrictions: Ground Lease (referred to in this Notice as the "Ground Lease").

Parties to Affordable Housing Restrictions:
City of Blue Lake ("City") and
_____, a California limited partnership ("Owner").

Legal Description of Property:
See Exhibit A (Attached hereto)

Street Address of Property: _____, Blue Lake, California.

Assessor's Parcel Number of Property:

Summary of Affordable Housing Restrictions (*check as applicable*):

- o The Affordable Housing Restrictions restrict the amount of rent which may be charged for the rental housing unit or units on the Property, as follows:

  Thirty-Nine (39) of the residential units constructed on the Property shall be available to Eligible Households whose income does not exceed sixty percent (60%) of the area median income. These Affordable Units shall be available at rents that do not exceed 30% of 60% of the Median Income, adjusted by Deemed Household Size, less a utility allowance.

  "Median Income" shall mean the median income for households in Humboldt County, California, as published from time to time by the United States Department of Housing and Urban Development ("HUD") in a manner consistent with the determination of median gross income under Section 8 of the United States Housing Act of 1937, as amended, and as defined in Title 25, California Code of Regulations, Section 6932.

- o The Affordable Housing Restrictions restrict the income level of the tenant or buyer of the Property, as follows:

  Thirty-Nine (39) of the residential units constructed on the Property shall be available to Eligible Households whose income does not exceed sixty percent (60%) of the area median income. These Affordable Units shall be available at rents that do not exceed 30% of 60% of the Median Income, adjusted by Deemed Household Size, less a utility allowance.

  "Median Income" shall mean the median income for households in Humboldt County, California, as published from time to time by the United States Department of Housing and Urban Development ("HUD") in a manner consistent with the determination of median gross income under Section 8 of the United States Housing Act of 1937, as amended, and as defined in Title 25, California Code of Regulations, Section 6932.

- o Term of Restrictions: 55 years, commencing on _____ and terminating on _____.

This Notice does not contain a full description of the details of all of the terms and conditions of the Affordable Housing Restrictions. You will need to obtain and read the Affordable Housing Restrictions to fully understand the restrictions and requirements which apply to the Property. In the event of any conflict between the terms of this Notice and the terms of the Affordable Housing Restrictions, the terms of the Affordable Housing Restrictions shall control.

Dated: _____, 20____ CITY OF BLUE LAKE

By: _____,
Amanda Mager, City Manager

Dated: _____, 20____ [TAX CREDIT LIMITED PARTNERSHIP—TBD]

By: _____,
_____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, 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.

_____
Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, 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.

_____
Name: _____
Notary Public

EXHIBIT A

Legal Description of the Property

ATTACHMENT NO. 8

FORM OF CERTIFICATE OF COMPLETION

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Blue Lake
111 Greenwood Road
Blue Lake, CA 95525-0458
Attn: City Clerk

CERTIFICATE OF COMPLETION OF CONSTRUCTION AND IMPROVEMENT

WHEREAS, the CITY OF BLUE LAKE, a municipal corporation of the State of California (hereinafter referred to as the "City") and [TAX CREDIT LIMITED PARTNERSHIP] a California limited parttnership, ("Developer"), are parties to that certain Disposition and Development Agreement dated _____, 20__ (the "DDA"); and

WHEREAS, pursuant to the DDA, the Developer has developed the Site (as defined therein) legally described in the attached Exhibit A (the "Site") by constructing, or causing to be constructed, all of the improvements required under the DDA; and

WHEREAS, pursuant to Section 422 of the DDA, promptly after completion of construction and development of the improvements to be developed on the Site (as set forth in the DDA) and upon the written request by the Developer, the City is required to furnish the Developer with a Certificate of Completion; and

WHEREAS, the issuance by the City of the Certificate of Completion shall be conclusive evidence that the Developer has complied with the terms of the DDA pertaining to construction and development of the improvements upon the Site; and

WHEREAS, the Developer has requested that the City furnish the Developer with the Certificate of Completion for the Site; and

WHEREAS, the City has conclusively determined that construction of the improvements on the Site as required by the DDA has been satisfactorily completed;

NOW, THEREFORE:

1. As provided in the DDA, the City does hereby certify that construction of the improvements on the Site as required by the DDA has been fully and satisfactorily performed and completed.

2. The DDA is of no further force and effect, with respect to the construction of the improvements to be constructed on the Site, and all rights, duties, obligations and liabilities of the City and the Developer thereunder with respect to such construction shall cease to exist. Any continuing and existing rights, duties, obligations and liabilities of the City and Developer, and its successors and assigns pertaining to the Site, are provided in the Ground Lease from the City conveying leasehold interest in the Site to the Developer including the affordability covenants for rental of the residential units as set forth therein..

3. This Certificate of Completion shall not be deemed or construed to constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the construction of the improvements on the Site. This Certificate of Completion is not a notice of completion as referred to in Section 3093 of the California Civil Code.

IN WITNESS WHEREOF, the City has executed this Certificate of Completion as of this _____day of _____, 20___.

CITY OF BLUE LAKE

By:_____
Amanda Mager, City Manager

"City"

ACCEPTED BY:

[_____]

By:_____

Name: _____

Its:_____

"Developer"

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STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, 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.

_____
Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, 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.

_____
Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

ATTACHMENT NO. 9

ANTICIPATED PUBLIC IMPROVEMENTS

The City anticipates that the public improvements that will be required for this development project will include the following:

Paving of Powers Creek District Trail and installation of street furniture (for example, benches, interpretive signage, art installations, etc.), onsite playground, onsite bike parking (covered and uncovered), contribution to Bike Park development on parcel 312-161-018, Taylor Way improvements, bus stop, offsite parking along Taylor Way or on City-owned parcel 025-091-022, native landscaping, improvements to the intersection at Taylor Way and Hatchery Road, bike and pedestrian improvements along Broderick lane, low impact development to reduce off site impacts to stormwater collection and powers creek, upgrades to WWTP including additional aeration and associated upgrades to the electrical panel to accommodate the additional wastewater loads from the project.

The specific scope of the public improvements will be determined through the entitlement process, with the extent of the public improvements determined based on the impacts of the proposed development project.