

BENICIA CITY COUNCIL CITY COUNCIL MEETING AGENDA

**May 5, 2026
6:00 PM**

**Benicia City Hall, Council Chambers
250 East L Street, Benicia, CA 94510**

COURTESY ZOOM PARTICIPATION

<https://us02web.zoom.us/j/88508047557?pwd=cHRsZlBrYlphU3pkODcycytmcFR2UT09>

Meeting ID: 885 0804 7557

Password: 449303

Phone: 1 669 900 9128

1. CALL TO ORDER (6:00 P.M.)

2. CONVENE OPEN SESSION

3. ROLL CALL

4. PLEDGE OF ALLEGIANCE

5. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

The fundamental rights of each member of the public can be found in the municipal code posted on the City's website and on a plaque that is posted at the entrance to this meeting per section 4.04.030 of the City of Benicia's Open Government Ordinance.

6. ANNOUNCEMENTS

6.A MAYOR'S OFFICE HOURS

RECOMMENDED ACTION: Mayor Young maintains an open office on the first and third Mondays of the month (except holidays) in the Mayor's office of City Hall from 4:30 to 6:00 p.m. No appointment is necessary. Other meeting times may be scheduled through City Hall by calling 707-746-4200.

7. PROCLAMATIONS

8. APPOINTMENTS

9. PRESENTATIONS

10. ADOPTION OF AGENDA

11. OPPORTUNITY FOR PUBLIC COMMENTS

How to Submit Public Comments for this City Council meeting:

Besides appearing in person and offering public comments, members of the public may provide public comment via Zoom, or to the City Clerk by email at lwolfe@ci.benicia.ca.us. Any comment submitted to the City Clerk should indicate to

which item of the agenda the comment relates to. Specific information follows:

- Comments received by 2:00 pm on the day of the meeting will be electronically forwarded to the City Council and posted on the City's website.

12. WRITTEN COMMENT

13. PUBLIC COMMENT

14. CONSENT CALENDAR

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, Staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

14.A APPROVAL OF 2026 STATE WATER PROJECT WATER TRANSFER

RECOMMENDED ACTION: Move to adopt a resolution (Attachment 1) approving the Solano County Water Agency 2026 State Water Project Water Transfer Letter of Understanding (LOU) (Attachment 2) for the sale of excess untreated water supply and authorizing the City Manager and Finance Director to sign letter on behalf of the City.

[Staff Report - Approval of 2026 State Water Project Water Transfer](#)

[1. Resolution - 2026 State Water Project Water Transfer](#)

[2. SCWA 2026 SWP Letter of Understanding](#)

[3. SCWA Water Transfer and Exchange Policy](#)

14.B APPROVAL OF PUBLICLY AVAILABLE SALARY SCHEDULES AND POSITION ALLOCATION CHANGE FOR THE FINANCE DEPARTMENT

RECOMMENDED ACTION: Adopt a resolution (Attachment 1) approving and adopting publicly available pay schedules (Exhibit A) in accordance with the California Code of Regulations, Title 2, Section 570.5, approving position allocation change, authorizing the Finance Director to make the necessary budget amendments, and authorizing the City Manager to take the necessary administrative steps to implement the actions.

[Staff Report - Salary Schedules and Position Allocation Change](#)

[1. Resolution - Salary Schedules and Position Allocation Change](#)

14.C APPROVAL OF A BUDGET AMENDMENT FOR GRANT FUNDED EXTRICATION TOOLS

RECOMMENDED ACTION: Adopt a resolution (Attachment 1) approving a budget amendment to increase Fire Department revenue budget and expense appropriations by \$76,144 to accept grant funds from the Metropolitan Transportation Commission and purchase four Holmatro extrication tools for the Benicia Fire Department.

[Staff Report - Budget Amendment for Grant Funded Extrication Tools](#)

[1. Resolution - Budget Amendment for Grant Funded Extrication Tools](#)

14.D REVIEW CITY COUNCIL RULES OF PROCEDURE

RECOMMENDED ACTION: Review the City Council Rules of Procedure (Attachment 1). Staff is not recommending any changes at this time.

[Staff Report - City Council Rules of Procedure](#)

[1. City Council Rules of Procedure](#)

14.E AMENDMENTS TO THE CITY'S CONFLICT OF INTEREST CODE

RECOMMENDED ACTION: Move to adopt a resolution (Attachment 1) amending the City's conflict of interest code (Exhibit A).

[Staff Report - Amendments to the City's Conflict of Interest Code](#)

[1. Resolution - Amending the City's Conflict of Interest Code 2026](#)

14.F APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA

15. BUSINESS ITEMS

15.A ACCEPTANCE OF THE ANNUAL COMPREHENSIVE FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2025

RECOMMENDED ACTION: Move to accept, by minute order, the Annual Comprehensive Financial Report for the fiscal year ended June 30, 2025 (Attachment 1).

[Staff Report - ACFR Acceptance](#)

[1. 2025 City of Benicia ACFR](#)

[2. 2025 City of Benicia Corrective Action Plan](#)

[3. 2025 City of Benicia Summary Schedule of Prior Audit Findings](#)

15.B APPROVAL OF LIST OF STREETS FOR 2027 CITYWIDE PAVEMENT REHABILITATION PROJECT TO RECEIVE MEASURE F AND FY 26/27 SENATE BILL 1 ROAD MAINTENANCE AND REHABILITATION ACCOUNT FUNDING

RECOMMENDED ACTION: Move to adopt a resolution (Attachment 1) approving the List of Streets (Project List) for the 2027 Citywide Pavement Rehabilitation Project (Exhibit A).

[Staff Report - List of Streets FY 26-27 Pavement Rehab Project SB1 RMRA](#)

[1. Resolution - FY 27-28 Citywide Pavement Rehabilitation Project Streets List](#)

[2. City of Benicia Pavement Zones Map](#)

15.C DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) FOR BENICIA SENIOR AFFORDABLE HOUSING ("SENIOR CENTER SITE" NEAR AND AT 187 EAST L STREET AND THE VACANT PARCEL AT THE NORTHEAST CORNER OF EAST 4TH AND EAST L STREETS)

RECOMMENDED ACTION: Adopt the resolution approving the DDA for the Benicia Senior Affordable Housing project located at the vicinity of the Benicia Senior Center/Parking lot ("Senior Center Site" near and at 187 East L Street) and the vacant parcel at the northeast corner of East 4th and East L Streets ("Scout

Property") and authorizing the City Manager to execute the DDA.

Staff Report - Benicia Senior DDA

1. Resolution - Benicia Senior DDA

Exhibit A - Disposition and Development Agreement

2. PC Resolution No. 26-1

16. ADJOURNMENT (9:00 P.M.)

Public Participation

The City of Benicia welcomes your interest and involvement in the City's legislative process. Persons wishing to address the Council, Board, Commission or Committee (CBCC) are asked to voluntarily complete a speaker request form, available at the entrance of Council Chambers, and submit it to the meeting Secretary/City Clerk. Speakers, addressing the CBCC at the time the item is considered, are requested to restrict their comments to the item as it appears on the agenda and stay within the three-minute time limit. The Brown Act does not permit the CBCC to take action on items brought up during the Public Comment period.

As a courtesy, and technology permitting, members of the public may participate remotely. Please be advised that those participating in the meeting remotely via Zoom do so at their own risk. Meetings will not be cancelled due to technical difficulties. The meeting can also be observed on Cable T.V. Broadcast - Check with your cable provider for your local government broadcast channel, or livestream online at www.ci.benicia.ca.us/agendas.

Americans with Disabilities Acts

The City of Benicia is committed to providing meeting facilities that are accessible to persons with disabilities. Meeting materials in alternative formats, a sign language interpreter, real-time captioning, assistive listening devices or other accommodations can be requested by calling (707) 746-4200 or by emailing ADACoordinator@ci.benicia.ca.us, at least four working days prior to a meeting. Assistive listening devices may be obtained at the meeting.

Meeting Procedures

Pursuant to Government Code Section 65009, if you challenge a decision of the CBCC in court, you may be limited to the issues raised during the meeting or in written correspondence delivered to the CBCC by the meeting. You may also be limited to a ninety (90) day statute of limitations when challenging certain administrative decisions, including any final decisions regarding planning or zoning.

The decision of the CBCC is final as of the date of its decision unless judicial review is initiated pursuant to Code of Civil Procedure Section 1094.5. Any such petition for judicial review is subject to the provisions of Code of Civil Procedure Section 1094.6

Public Records and Writings Received After Agenda Posting

A printed version of the agenda packet for this meeting is available at the Benicia Public Library during regular working hours. To the extent feasible, the agenda packet and any writing or documents related to an agenda item for this meeting provided to the CBCC, will be made available for public inspection on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." A complete recording of each meeting is available online at www.ci.benicia.ca.us/agendas.

Contact Your Council Members

Voicemail for Mayor and Council Members: (707) 746-4213

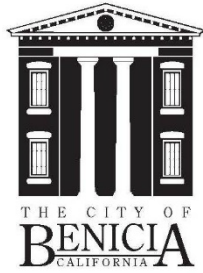
Mayor Steve Young: SYoung@ci.benicia.ca.us

Vice Mayor Trevor Macenski: TMacenski@ci.benicia.ca.us

Council Member Kari Birdseye: KBirdseye@ci.benicia.ca.us

Council Member Lionel Largaespada: LLargaespada@ci.benicia.ca.us

Council Member Terry Scott: TScott@ci.benicia.ca.us



**AGENDA ITEM
CITY COUNCIL MEETING DATE – MAY 5, 2026
CONSENT CALENDAR**

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF 2026 STATE WATER PROJECT WATER TRANSFER**

EXECUTIVE SUMMARY:

The City of Benicia, along with other agencies in Solano County, is in a unique situation of having an excess amount of State Water Project (SWP) water. City staff recommends selling up to 2,000 acre-feet of this water for a Transfer Fee of approximately \$475 per acre-foot (AF) from the Solano County Water Agency.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) approving the Solano County Water Agency 2026 State Water Project Water Transfer Letter of Understanding (LOU) (Attachment 2) for the sale of excess untreated water supply and authorizing the City Manager and Finance Director to sign letter on behalf of the City.

BUDGET INFORMATION:

The revenue of up to \$950,000 from the water sale would be deposited into Account No. 7508020-5503 (Water – Miscellaneous Other Income).

BACKGROUND:

The City is a Solano County Water Agency (SCWA) member. Through SCWA, the City receives water from the State Water Project (Lake Oroville) and the Solano Project (Lake Berryessa).

In 2021, SCWA developed a water exchange and transfer policy (Attachment 3) in conjunction with Solano County cities. The purpose of this policy was to formalize how SCWA conducts water transfers and exchanges while protecting Solano County's primary water sources. The central theme of the policy gives Solano County cities the first right of refusal for any transfers or exchanges before seeking buyers located outside the county.

Per the contract, the City pays SCWA \$352,600 per fiscal year for its allocation of SWP water. The City's entitlement is 17,200 AF per year. However, the City does not always

receive the full entitlement amount. For example, in a drought year, such as 2021, the City's allocation was only 5%, meaning the City only received 5%, or 860 AF, of the 17,200 AF entitlement. In 2023, the allocation was 100%. In 2025, the allocation was 50%. Currently, the allocation is 40% in 2026.

Carryover of unused SWP water allocation is allowed, and currently, the City has an excess of carryover water and is expected to be able to sell approximately 2,000 acre-feet of this water for a minimum price of \$475/AF.

For reference, the 2024 water transfer resulted in the City receiving \$250/AF for 1,707.5 AF, for a revenue of \$426,875, and will receive \$300/AF for 2,000 AF, for a revenue of \$600,000, for the 2025 water transfer.

The first step in a water sale (or water transfer) is the LOU. The official water sale would be between SCWA and the buyer.

NEXT STEPS:

If approved, the City and SCWA will sign the LOU. The actual water sale agreement will be between SCWA and the buyer.

ALTERNATIVE ACTIONS:

City Council may choose to not sell the City's excess water.

CEQA Analysis	Because the 2026 Transfer will be delivered through existing facilities, without the construction of new facilities, Benicia and the Agency agree that the 2026 Transfer is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15301 of the State CEQA Guidelines. The Agency shall file a Notice of Exemption for the 2026 Transfer with the Clerk of the Board of Supervisors of Solano County, as well as the county in which the Contractor is located, and shall provide a copy to Benicia.

ATTACHMENTS:

1. Resolution – 2026 State Water Project Water Transfer
2. Solano County Water Agency 2026 SWP Water Transfer Letter of Understanding
3. Solano County Water Agency Water Transfer and Exchange Policy

For more information contact: Danielle Martinez, Public Works Director

Phone: 707-746-4240

E-mail: pw@ci.benicia.ca.us

RESOLUTION NO. 26-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING
THE SOLANO COUNTY WATER AGENCY 2026 STATE WATER PROJECT WATER
TRANSFER LETTER OF UNDERSTANDING FOR THE SALE OF EXCESS
UNTREATED WATER SUPPLY AND AUTHORIZING THE CITY MANAGER AND
FINANCE DIRECTOR TO SIGN THE LETTER ON BEHALF OF THE CITY**

WHEREAS, the City is a member of the Solano County Water Agency (SCWA) and pays SCWA to receive an allocation of State Water Project (SWP) water every year; and

WHEREAS, due to surplus conditions in three consecutive water years, the City has an excess water supply of untreated State Water Project SWP water in 2026; and

WHEREAS, the City is in a unique position of being able to potentially sell excess water to another agency who hold a contract to receive water deliveries from the SWP, and require more SWP water than their allocation provides in 2026; and

WHEREAS, City staff recommends selling up to 2,000 acre-feet of this water for a Transfer Fee of approximately \$475 per acre-foot (AF) from the Solano County Water Agency; and

WHEREAS, the first step of a water sale (or water transfer) is the signing of a Letter of Understanding; and

WHEREAS, the official water sale would be between SCWA and the buyer.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the 2026 State Water Project Water Transfer Letter of Understanding for the sale of excess untreated water supply up to \$950,000 and authorizes the City Manager and Finance Director to sign letter on behalf of the City.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of May 2026 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

SOLANO COUNTY WATER AGENCY



April 9, 2026

Danielle Martinez, Public Works Director
City of Benicia
250 East L Street
Benicia, CA 94510

Re: City of Benicia's 2026 SWP Water Transfer Letter of Understanding

Dear Ms. Martinez:

This letter of understanding ("LOU") documents and confirms the mutual agreement that has been reached between Solano County Water Agency ("Agency") and the City of Benicia ("Benicia") (collectively the "Parties" and each "Party"). This LOU specifies the terms under which the Agency agrees to transfer approximately 2,000-acre feet (AF) of Benicia's State Water Project ("SWP") water ("2026 Transfer") to a State Water Contractor ("Contractor") outside of Solano County. The specific Contractor has not yet been identified but will be one of the many SWP contractors that are interested in purchasing the water from Benicia. In consideration for the 2026 Transfer, Contractor will pay the Agency a minimum fee of \$475.00 per AF water transferred ("Transfer Fee"), for a projected total of \$950,000, which the Agency will then remit to Benicia. Notwithstanding the foregoing, the Parties may negotiate a higher fee with any such Contractors.

BACKGROUND AND PURPOSE

The Agency holds a contract with the Department of Water Resources ("DWR") to receive imported water deliveries from the SWP. Benicia (along with other agencies in Solano County) is a Member Agency of the Agency and pays the Agency to receive an allocation of SWP water under a separate contract.

As of the date of this LOU, the Agency and City have contacted several SWP contractors outside of Solano County that hold contracts to receive water deliveries from the SWP and require more SWP water than their DWR allocation provides in 2026. Benicia agrees to forego a portion of up to two-thousand acre feet (2,000 AF) of the delivery of the 2026 SWP water to which it is entitled under the Benicia Member Unit Contract and make that water available for transfer to Contractor under the terms and conditions set forth herein.

Pursuant to Benicia's request, the Agency will work with the selected Contractor and DWR to facilitate the 2026 Transfer. The basic parameters of the 2026 Transfer are as follows: Benicia will receive from the Agency a Transfer Fee of \$475.00 per AF, or other reasonably negotiated price, of SWP water transferred to Contractor in the 2026 water year. The amount of 2026 Transfer water is estimated to be up to 2,000 AF, the final price shall be determined by multiplying the total number of acre feet transferred by the agreed-upon price per acre foot.

810 Vaca Valley Parkway, Suite 202 • Vacaville, CA 95688
Phone (707) 451-6090 • <http://www.scwa2.com>



The Agency will serve as a "pass through" and facilitator of the 2026 Transfer, and will not receive any financial compensation, water, or other remuneration for these efforts.

TERMS AND CONDITIONS

1. Condition Precedent. DWR's written approval of the 2026 Transfer between the Agency and the Contractor is a condition precedent to the Agency's authorization to proceed under the LOU. DWR's approval shall be provided in the form of an agreement between DWR, the Agency, and the Contractor ("Transfer Agreement").
2. Deliveries to Contractor. The Agency will request that DWR deliver to the Contractor up to 2,000-acre feet of Benicia's SWP water. Within thirty (30) days following the execution of the Transfer Agreement, the Contractor shall pay the Agency the Transfer Fee for each AF of 2026 SWP water made available by Benicia, unless a different price is negotiated and agreed upon in writing by Benicia, the Agency, and the Contractor. Provided all agreements are in place for the 2026 Transfer, the Agency shall pay 100% of the Transfer Fee received from the Contractor to Benicia within ten (10) days of receipt.
3. Notice of Exemption. Because the 2026 Transfer will be delivered through existing facilities, without the construction of new facilities, Benicia and the Agency agree that the 2026 Transfer is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(bX3) and 15301 of the State CEQA Guidelines. The Agency shall file a Notice of Exemption for the 2026 Transfer with the Clerk of the Board of Supervisors of Solano County, as well as the county in which the Contractor is located, and shall provide a copy to Benicia.
4. Transaction Costs. Benicia and the Agency shall each be responsible for its own legal and consulting costs incurred in the preparation, review, and implementation of this LOU. Benicia and the Agency each agree to cooperate with each other in the preparation, review, and execution of any additional agreements that may be necessary to implement the 2026 Transfer. Benicia shall not be responsible for payment of any charges imposed by any agency, including the Agency, for the preparation and processing of the Transfer Agreement, or for the preparation and processing of such other approvals as may be necessary to implement the 2026 Transfer.
5. Costs of Defense. In the event of any legal action by a third party to challenge this LOU or the 2026 Transfer, Benicia and the Agency agree to cooperate in the defense thereof and to share equally in the costs of such defense, utilizing counsel mutually acceptable to the Parties.
6. Force Majeure. In the event that an unavoidable event beyond the reasonable control of the Parties, including, but not limited to availability of SWP water, renders the performance of this LOU impossible or infeasible, the Parties hereto shall be excused from the performance thereof; provided, however, that the Agency shall first coordinate with DWR to determine whether alternate performance may be possible pursuant to an alternate schedule for completion of performance.

7. Authority. The undersigned representatives of Benicia and the Agency hereby represent that they are authorized to execute the LOU for the Parties on whose behalf this LOU is executed.

8. Notice. Written notice may be provided by either Party to the other by first class mail, postage prepaid to the following addresses:

Attn: Danielle Martinez, Public Works Director
City of Benicia
250 East L Street
Benicia, CA 94510

Attn: Chris Lee, General Manager
Solano County Water Agency
810 Vaca Valley Parkway, Suite 202
Vacaville, CA 95688

City of Benicia

By: _____
Mario Giuliani, City Manager

Date

Solano County Water Agency

By:  _____
Chris Lee (Apr 10, 2026 10:50:30 PDT)
Chris Lee, General Manager

10/04/2026

Date



SOLANO COUNTY WATER AGENCY WATER TRANSFER AND EXCHANGE POLICY

(Adopted July 8, 2021)

This policy has been developed by the Solano County Water Agency (SCWA) Water Policy Committee and adopted by the SCWA Board of Directors at their July 8, 2021, Board meeting. This policy only applies to Solano Project water and State Water Project (SWP) water (aka NBA water). It is not intended to impinge on individual member agency's water rights.

Introduction

SCWA is a wholesale water supply agency providing untreated water to cities and agricultural districts in Solano County from the Federal Solano Project and the North Bay Aqueduct of the State Water Project. SCWA represents local agencies involved in water and flood management. The Agency is governed by the Board of Directors composed of the five members of the Solano County Board of Supervisors, the seven mayors of the cities in Solano County, and a director from each of the three agricultural districts that provide retail agricultural water.

Member agencies include:

- City of Benicia
- City of Dixon
- City of Fairfield
- City of Rio Vista
- City of Suisun City
- City of Vacaville
- City of Vallejo
- Maine Prairie Water District
- Reclamation District 2068
- Solano County
- Solano Irrigation District

Purpose and Intent

SCWA supports sustainable water management of the agency's State Water Project and Federal Solano Project allocations, while providing flexibility to the Agency's members. Water purveyors in Solano County have a long history of working together in collaboration with SCWA.

The purpose of this policy is to formalize SCWA water transfer and exchanges while protecting primary water sources. The policy is intended to address issues in the future including:

- Population growth
- Drought
- Sustainability
- Resiliency
- Recycled water
- Tail water
- Groundwater
- Regional integration
- Environmental water quality
- Fire protection
- More effective movement of water within the county and beyond
- Substituting new water opportunities/sources for NBA transferable water

The overriding principles of this policy are:

- No Harm/Solano County First.
- Any transfer or exchange must be consistent with the SCWA Master Contract with DWR and the SCWA Master Contract with the Bureau of Reclamation.
- Any transfers or exchanges not covered by this policy are not necessarily prohibited but will be addressed by SCWA on case-by-case basis.
- Any existing contracts and on-going service obligations are grandfathered into this policy.

Definitions

- **Exchange:** Trading water. As an example, one entity might trade NBA water for Solano Project water. An agreed-on amount of water is returned to the seller.
- **Harm:** In the context of "No Harm/Solano County First", "harm" shall be defined as: (1) transfer or exchange of water to an entity outside Solano County without first offering such water to SCWA members within Solano County; 2) Not notifying SCWA of any inter-county Solano Project/State Water Project transfers.
- **In-County Exchanges:** Water exchanges between SCWA member(s) and other Solano Project members for use within the County.
- **Out-of-County Exchanges:** Water exchanges from individual SCWA member(s) to water agencies outside SCWA's jurisdiction.
- **Place of Use:** Geographical area that Solano Project water can be transferred or exchanged within. Place of Use is limited to Solano County (except Montezuma Hills), UC Davis and a small part of Yolo County as authorized by the State Water Board.

- **Transfer:** An action where water is delivered to the buyer in exchange for a mutually agreed price.
- **In-County Transfers:** Water transfers between SCWA member(s) and other Solano Project members for use within the County.
- **Out-of-County Transfers:** Water transfers from individual SCWA member(s) to water agencies outside SCWA's jurisdiction.
- **Solano Project Water:** The Solano Project is a federal project that stores water in Lake Berryessa for delivery to users within the Place of Use. SCWA holds, as executors, long-term master water supply contracts with U.S. Bureau of Reclamation (USBR). Solano Project water cannot be transferred or exchanged outside its "Place of Use."
- **State Water Project (SWP) (aka NBA Water) "Table A" water.** Table A water is the only supply in SCWA's water supply portfolio that is eligible for transfers and exchanges outside of SCWA's service area. SWP "Table A" water is the annual NBA water supply provided by SCWA's Long-term State Master Contract for SWP water supply which SCWA members have an allocated portion of. The SWP contract allows for transfers and exchanges to recover some capitalized and/or operational investment costs. Exchanges and transfers out-of-county can only be negotiated with another SWP Contractor for use within the SWP service area, or the collective service areas of all 29 State Water Contractors. DWR approval is required for all out-of-county transfers and exchanges. The SWP Contract transfer and exchange rules are strict and carefully applied by DWR to scrutinize all SWP transfers and exchanges.
- **North Bay Aqueduct:** A component of the State Water Project that serves portions of Solano and Napa counties.
- **Transferrable/Exchangeable Water:** Water determined by individual member agencies to be available for exchange or transfer.

Scope

Only transferrable/exchangeable water, as determined by individual SCWA member agencies, is subject to this Water Transfer and Exchange Policy.

Potential sources of water available for transfer or exchange include:

- State Water Project conveyed through the North Bay Aqueduct (Table A water)
- Solano Project

Policy Consistency

This policy will be consistent with any Groundwater Sustainability Plans, Urban and Agricultural Water Management Plans, and the cities and County General Plans. The

policy is also linked to SCWA's 2016-2025 Strategic Plan and will not impair any existing contracts relating to water exchanges/transfers.

Policy

SCWA member agencies negotiate water transfers and exchanges with willing sellers and will advise SCWA and other member agencies through the Solano Water Advisory Committee (SWAC) of any water needs or availability of transferrable/exchangeable water when known.

In-County Priority: Member agencies should be encouraged to seek water transfers and exchanges serving in-county needs before serving out-of-county needs. Water deemed to be available for a transfer or exchange by any SCWA member agency should first be offered to other SCWA member agencies at mutually agreeable terms. If agreement cannot be reached within the timeframe set by the offering member agency, the member may pursue other buyers.

Out-of-County Transfer and Exchanges:

If no SCWA member agencies commit to purchasing the transferrable/exchangeable water supply by the deadline set by the offering member agency, member agencies may request SCWA to offer the transferrable/exchangeable water to out-of-county State Water Project (SWP) contractors at prevailing market prices. Notifying SCWA by April 1st, or when known, will give SCWA adequate time to negotiate the transfer/exchange.

Transfer/Exchange Procedures

1. **In-County Transfer and Exchange** procedure includes:
 - a. Individual SCWA member agencies determine if they have transferrable/exchangeable water available.
 - b. Individual agencies with transferrable/exchangeable water negotiate mutually agreeable terms with receiving member agencies.
 - c. SCWA must be notified of any transfers/exchanges. SCWA will determine:
 - (i) Verification of water rights
 - (ii) Conveyance capacity
 - (iii) Consistency with DWR and USBR Master Contracts
 - (iv) Environmental review (CEQA)
 - (v) Any other requirements that may be added in the future.
 - d. The SCWA Board must approve any transfers or exchanges requiring CEQA.
 - e. SCWA will perform all administrative and bookkeeping functions.

2. Out-of-County Transfer and Exchanges:

If no SCWA member agencies commit to purchasing the transferrable/exchangeable water by the deadline set by the offering member agency, member agencies may request SCWA to offer the transferrable/exchangeable water to out-of-county State Water Project (SWP) contractors at prevailing market prices. Notifying SCWA by April 1st, or when known, will give SCWA adequate time to negotiate the transfer/exchange.

Out-of-County transfer and exchange procedures include:

- a. Timeline
 - (i) All out-of-county transfer and/or exchanges should be submitted to SCWA ideally by April 1st of any given year, or when known.
 - (ii) The offering member agency will respond to a request to purchase and/or SCWA will seek buyers and SCWA will negotiate the terms of the transfer and/or exchange in consultation with the member agency offering the transferrable/exchangeable water. The terms will minimize the risk to the selling agency and SCWA.
- b. Terms for multi-year transfers must include a provision for the SCWA member agency to confirm availability and the ability to deliver water on an annual basis. This allows for suspending the contract to meet local needs or prioritize transfers or exchanges to SCWA members for any single year.
- c. SCWA will determine:
 - (i) Verification of water rights
 - (ii) Compliance with the DWR Master Contract
 - (iii) Compliance with the Bay-Delta Water Quality Control Plan
 - (iv) Consistent with HCP/NCCP
 - (v) Meets CEQA
 - (vi) Does not create a water quality problem for another SCWA member agency.
- d. SCWA will obtain DWR approval.
- e. SCWA will seek SCWA Board approval. If the timing requires quicker action than monthly Board meetings, the General Manager will recommend a Special Meeting.
- f. SCWA will facilitate the transfers through DWR.

COSTS

Any State or third-party charges or fees related to transfers and exchanges within the County or to water contractors outside the County shall be payable by the receiving agency. SCWA staff time to assist with the transfer or exchange shall not be charged to the transferring agency.

Responsibilities

1. **Responsibility of SCWA General Manager:** Discretion is delegated to the General Manager by the SCWA Board to:
 - a. Notify SWAC members when transferrable/exchangeable water is available.
 - b. Follow all transfer and exchange policies and procedures.
2. **Responsibility of SCWA Water Policy Committee:** The Water Policy Committee shall:
 - a. Annually review this policy to determine if it effectively meets the needs of member agencies. The Committee may propose amendments to this policy, for consideration by the full Board, to address inefficiencies and changing conditions. The Committee will coordinate with the SWAC before proposed changes are brought before the full Board.
 - b. The Water Policy Committee should have diverse representation of Municipal and Industrial (M&I), ag, and County interests.

Protection of SCWA and member agencies

All transfer and exchange agreements shall include appropriate “hold harmless” language to protect SCWA, member agencies, their officers, and staff from non-performance and/or negligence by the entity receiving the transferred or exchanged water.

Effective Term of Policy

The terms and provisions of this policy shall remain in full force and effect until amended by the SCWA Water Policy Committee and approved by the SCWA Board.

Glossary:

Acre-foot	One acre-foot equals about 326,000 gallons, or enough water to cover an acre of land (about the size of a football field) one foot deep. An average California household uses between one-half and one acre-foot of water per year for indoor and outdoor use.
CEQA	California Environmental Quality Act - a California statute passed in 1970, shortly after the United States federal government passed the National Environmental Policy Act (NEPA), to institute a statewide policy of environmental protection. CEQA does not directly regulate land uses, but instead requires state and local agencies within California to follow a protocol of analysis and public disclosure of environmental impacts of proposed projects and, in a departure from NEPA, adopt all feasible measures to mitigate those impacts. CEQA makes environmental protection a mandatory part of every California state and local (public) agency's decision-making process.
DWR	California Department of Water Resources
HCP/NCCP	A Habitat Conservation Plan (HCP) is a document that meets federal Endangered Species Act (ESA) requirements and enables local agencies to allow projects and activities to occur in endangered species' habitats. In exchange, those projects and activities must incorporate HCP-prescribed measures to avoid, minimize, or compensate for adverse effects on natural communities and endangered species. A Natural Community Conservation Plan (NCCP) is the State counterpart to the federal HCP.
Master Contracts	SCWA holds a two long-term water supply contracts. They include: • Federal contract with the Bureau of Reclamation for Solano Project water. Includes Ag and M&I deliveries. • State contract with DWR for State Water Project water. Includes M&I deliveries only.
NBA	North Bay Aqueduct. The NBA is part of the State Water Project (SWP). The NBA is an underground pipeline that conveys SWP water to Solano and Napa counties. SCWA has service contracts for NBA water with Vacaville, Fairfield, Suisun City, Vallejo, and

Benicia. The Cities of Dixon and Rio Vista have the potential to execute future contracts for NBA water.

Solano Project	The Solano Project (SP) is a federal project of the Bureau of Reclamation that stores water in Lake Berryessa for delivery to users throughout the region.
Exchangeable/ Transferrable Water	Water determined by individual SCWA member agencies to be available for exchange or transfer. Potential sources of exchangeable/transferrable water include: • State Water Project conveyed through the North Bay Aqueduct • Solano Project: Solano Project water cannot be sent outside of SCWA's Place of Use. Place of Use includes Solano County except Montezuma Hills, UC Davis, and a small part of Yolo County.
SWP	State Water Project. The SWP, operated by the State of California, Department of Water Resources, is a water storage and delivery system of reservoirs, aqueducts, power plants and pumping plants extending more than 700 miles —two-thirds the length of California. The SWP provides water to Solano County through the North Bay Aqueduct.
Table A Water	Table-A" water is the SWP water provided to SCWA under the DWR Master Contract. SCWA has a maximum annual allocation of Table-A water of 47,756 Acre-feet per year. The actual annual allocation of Table-A water from DWR can vary from 0% up to 100% of the maximum Table-A, depending hydrology and factors such as reservoir storage.
Bay-Delta Water Quality Control Plan	A policy document adopted by the State Water Resources Control Board that establishes water quality control measures and flow requirements needed to provide reasonable protection of beneficial uses in the San Francisco Bay/Sacramento-San Joaquin Delta estuary.
Water Exchanges	Water Exchanges include: • Water exchanged between willing sellers and willing buyers within Solano County. • Water exchanged between willing SCWA member agencies and willing buyers outside of Solano County.

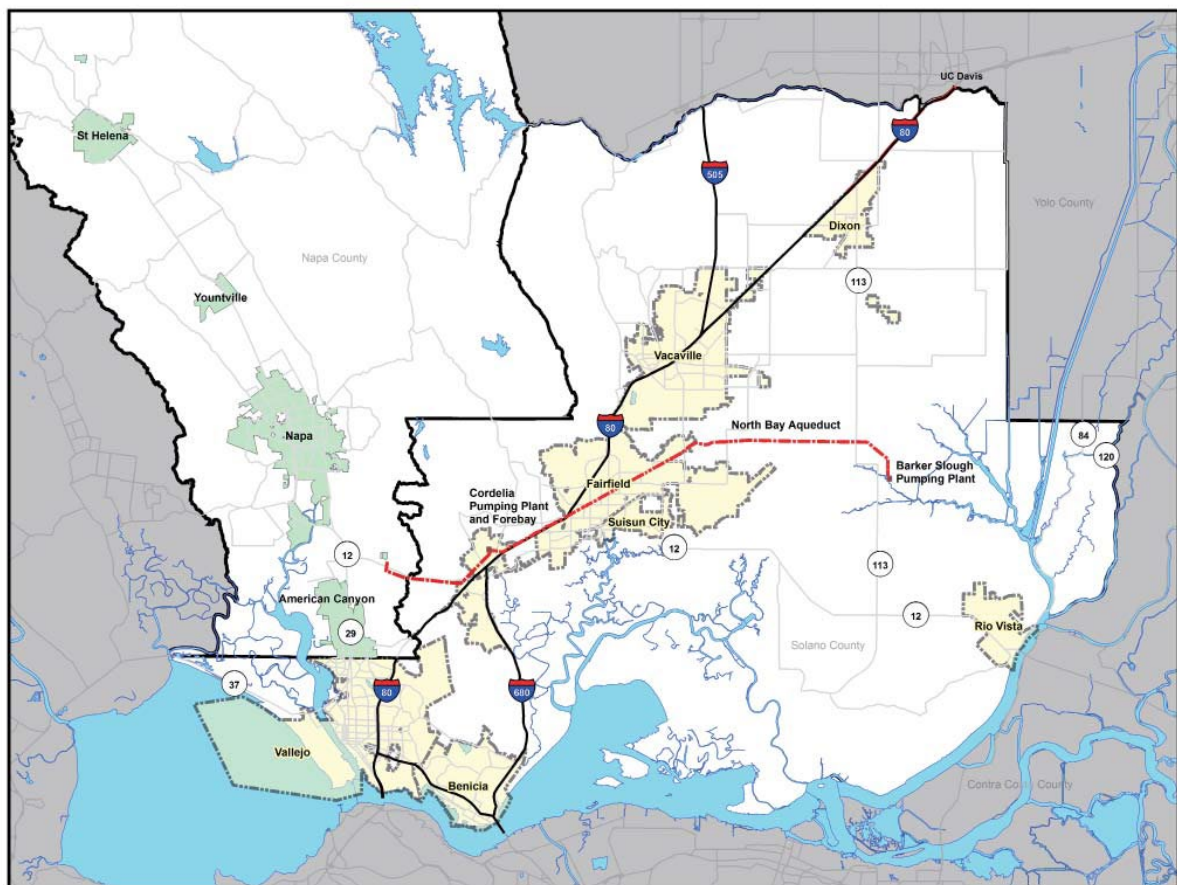
Water Transfers Water Transfers include:

- Water sold between willing sellers and willing buyers within Solano County.
- Water sold between willing SCWA member agencies and willing buyers outside of Solano County.

North Bay Aqueduct

The North Bay Aqueduct (NBA) is part of the State Water Project and provides 40% of the municipal water supply to over 400,000 people in cities in Solano and Napa Counties. The NBA consists of a pump station in the Cache Slough area in the Delta and a 28-mile underground pipeline that delivers water to city water treatment plants, intermediate pump stations and ancillary facilities.

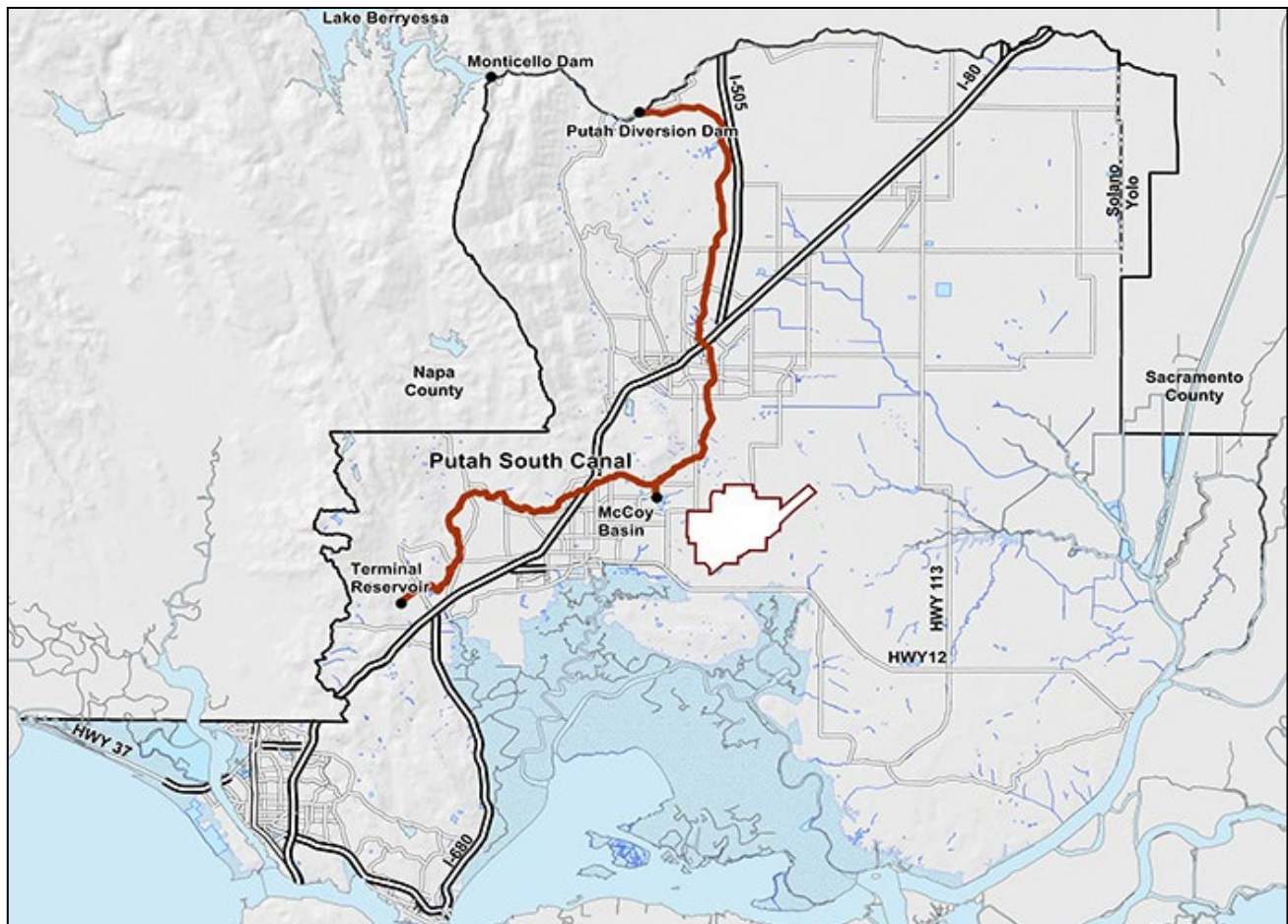
The NBA State Water Project provides about 50% of the municipal and industrial water use in Solano County and about 40% of the municipal and industrial water use in Napa County. This water supply to Napa and Solano Counties is a critical resource and is expected to provide future water for planned growth in both counties. The following cities either currently use (or can use in the future) NBA water: Benicia, Dixon, Fairfield, Suisun City, Vacaville, Vallejo, Rio Vista, American Canyon, Napa, and Calistoga.

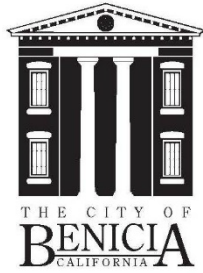


Solano Project

The Solano Project is a federal project of the Bureau of Reclamation that stores water in Lake Berryessa for delivery to users throughout the region and is sized to meet only the projected water needs of Solano County. Congressional authorization was granted for the construction of the Solano Project and the first water was delivered in 1959. The total construction cost for the Solano Project was \$38 million. For a more detailed history of the Solano Project, see the book by the Solano Irrigation District entitled "The Solano Water Story: A History of the Solano Irrigation District and the Solano Project."

Monticello Dam was constructed from 1953 to 1957 and has a height of 304 feet and a crest length of 1023 feet. The dam is able to hold a capacity of 1.602 million acre-feet of water.





**AGENDA ITEM
CITY COUNCIL MEETING DATE – APRIL 21, 2026
CONSENT CALENDAR**

TO : City Council

FROM : Interim Human Resources Manager

SUBJECT : **APPROVAL OF PUBLICLY AVAILABLE SALARY SCHEDULES
AND POSITION ALLOCATION CHANGE FOR THE FINANCE
DEPARTMENT**

EXECUTIVE SUMMARY:

California Public Employee's Retirement System (CalPERS) requires the adoption of resolutions duly approving and adopting publicly available pay schedules in accordance with the requirement of the California Code of Regulations (CCR), Title 2, Section 570.5.

RECOMMENDATION:

Adopt a resolution (Attachment 1) approving and adopting publicly available pay schedules (Exhibit A) in accordance with the California Code of Regulations, Title 2, Section 570.5, approving position allocation change, authorizing the Finance Director to make the necessary budget amendments, and authorizing the City Manager to take the necessary administrative steps to implement the actions.

BUDGET INFORMATION:

The budget impact for the position allocation change in the Finance Department is \$3,087 for Fiscal Year ending 2026 and \$23,027 for Fiscal Year ending 2027. There is no budget impact for the changes to City Manager salary as the budget for this item was approved at a previous council meeting.

BACKGROUND:

The City of Benicia contracts with CalPERS to provide retirement benefits for its employees. As a public employer, the City must abide by California law when establishing and reporting compensation for its employees. The CCR Title 2, Section 570.5 provides that each pay schedule meets the following requirements:

1. Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meeting laws; and
2. Identifies the position title for every employee position; and
3. Shows the pay rate and effective date for each position; and
4. Indicates the time base for each pay rate.

CalPERS uses the City's pay schedules to determine final compensation and to calculate retirement benefits for the City's employees. Inaccurate pay schedules could negatively impact an employee's final retirement calculation or delay receipt of the appropriate retirement compensation. The City has been posting salary information on its website for years. To ensure that the City remains compliant with its obligation under Section 570.5, staff will, at a minimum, present pay schedules to the Council to be duly authorized and approved on an annual basis.

The City also continues to make necessary changes to modernize operations within all departments, implement program efficiencies, and identify staffing optimization solutions to secure a strong and sustainable financial future. The efforts to review staffing as part of the City's Resiliency Plan continue and will continue in phases over the next few years.

This report recognizes a position allocation change in the Finance Department as follows:

Finance: Net 0 FTE

- Delete 1 FTE Finance Director
- Add 1 FTE Administrative Services Director

The Administrative Services Director acts as the chief financial officer while also managing information technology, purchasing, and certain functions of risk management. The Finance Director assumed management of the IT division, and other duties of the Assistant City Manager position when the Assistant City Manager resigned in 2023. The Finance Director has only been receiving acting pay for the assignment since 2025, and this allocation change officially organizes both the Finance Department and IT Division under the Administrative Services Director. The acting pay will be eliminated, and the pay range is adjusted commensurate with the Assistant City Manager range.

The City Manager's salary is updated in accordance with the Council Resolution approved in October 2025. It is important to remind Council that when the City Manager assumed the City Manager position in 2023, he voluntarily declined a salary increase and stayed at his (then) Assistant City Manager pay rate.

These are examples of how staff are making sacrifices and exercising leadership as the City navigates through our resiliency plan.

Exhibit A reflects 1) the current part-time hourly pay schedule, updated to include the January 2026 minimum wage increase; 2) future salary rates for City Manager, pursuant to the second amendment to the employment contract approved in 2025; and 3) adds the position allocation and salary range for the position of Administrative Services Director.

NEXT STEPS:

Direct staff to take the necessary steps to finalize and post on the City website the salary schedules in accordance with CalPERS requirements.

ALTERNATIVE ACTIONS:

Without Council approval of the position allocation change and budget amendment, no change will be made.

CEQA Analysis	The requested action is exempt from CEQA because it will not result in a direct or indirect physical change in the environment and therefore it is not a project as defined in CEQA Guidelines Section 15378.

ATTACHMENT:

1. Resolution - Salary Schedules
Exhibit A - Salary Schedules

For more information contact: Kim Imboden, Interim Human Resources Manager

Phone: 707-746-4205

E-mail: kimboden@ci.benicia.ca.us

RESOLUTION NO. 26-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING POSITION ALLOCATION AND BUDGET AMENDMENT AND PUBLICLY AVAILABLE SALARY SCHEDULE, AND AUTHORIZING THE CITY MANAGER TO TAKE THE NECESSARY ADMINISTRATIVE STEPS TO IMPLEMENT THE ACTIONS

WHEREAS, the City of Benicia contracts with the California Public Employee's Retirement System ("CalPERS") to provide retirement benefits for its employees; and

WHEREAS, pursuant to California Code of Regulations, Title 2, Section 570.5, CalPERS requires governing bodies of local agencies contracting with CalPERS to approve and adopt a publicly available pay schedule in accordance with public meeting laws; and

WHEREAS, the pay schedule must identify the position title for every employee position, the pay rate for each position title, and the applicable time base for the pay rate; and

WHEREAS, the pay schedules reflect the minimum wage increase, effective January 1, 2026, for part-time employees, the future salary changes for City Manager, and adds the classification and salary range for the position of Administrative Services Director; and

WHEREAS, the City Council of the City of Benicia desires to approve and adopt the publicly available pay schedules, as outlined in Exhibit A, showing all established employee positions and pay rates, in accordance with the requirement of California Code of Regulations, Title 2, Section 570.5.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the publicly available salary schedules for the City of Benicia job classifications as outlined in Exhibit A; approves the position allocation change of deleting 1 FTE Finance Director and adding 1 FTE Administrative Services Director, and the budget adjustment for the allocation change, authorizes the Finance Director to make the necessary budget amendments, and authorizes the City Manager to take the necessary administrative steps to implement the actions.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of May, 2026 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Exhibit A
Salary Schedules [see next page]



City of Benicia - Full Time Monthly Salary Schedule

For questions, contact Human Resources at (707) 746-4766

Classification Title	Grade	Unit	Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5
ACCOUNT CLERK I	A100	BPSEA	6/21/2025	\$4,118.86	\$4,324.80	\$4,541.06	\$4,768.10	\$5,006.49
ACCOUNT CLERK II	A101	BPSEA	6/21/2025	\$4,530.75	\$4,757.28	\$4,995.14	\$5,244.89	\$5,507.14
ACCOUNTANT I	B270	BSPA	6/21/2025	\$6,506.82	\$6,832.16	\$7,173.78	\$7,532.48	\$7,909.08
ACCOUNTANT II	B271	BSPA	6/21/2025	\$7,157.51	\$7,515.37	\$7,891.14	\$8,285.70	\$8,700.00
ACCOUNTING MANAGER	C105	MID	6/21/2025	\$11,176.01	\$11,734.79	\$12,321.56	\$12,937.62	\$13,584.50
ACCOUNTING TECHNICIAN	A120	BPSEA	6/21/2025	\$5,730.90	\$6,017.43	\$6,318.31	\$6,634.19	\$6,965.92
ADMIN CLERK I	A130	BPSEA	6/21/2025	\$3,857.96	\$4,050.85	\$4,253.41	\$4,466.08	\$4,689.38
ADMIN CLERK II	A131	BPSEA	6/21/2025	\$4,244.32	\$4,456.55	\$4,679.36	\$4,913.33	\$5,158.99
ADMIN SECRETARY	B100	BSPA	6/21/2025	\$5,340.98	\$5,608.01	\$5,888.43	\$6,182.85	\$6,491.99
ADMINISTRATIVE SERVICES DIRECTOR	E165	SENIOR	4/21/2026	\$16,627.73	\$17,459.12	\$18,332.07	\$19,248.68	\$20,211.11
ASSISTANT ENGINEER	B120	BSPA	6/21/2025	\$8,710.75	\$9,146.28	\$9,603.59	\$10,083.78	\$10,587.95
ASSISTANT PLANNER	B130	BSPA	6/21/2025	\$7,026.43	\$7,377.76	\$7,746.62	\$8,133.97	\$8,540.66
ASSOCIATE CIVIL ENGINEER	B140	BSPA	6/21/2025	\$9,582.84	\$10,061.97	\$10,565.07	\$11,093.33	\$11,648.00
ASSOCIATE PLANNER	B150	BSPA	6/21/2025	\$7,729.17	\$8,115.62	\$8,521.42	\$8,947.48	\$9,394.84
ASST CITY MGR/COMM DEV DIR	E139	SENIOR	6/21/2025	\$16,627.72	\$17,459.12	\$18,332.08	\$19,248.68	\$20,211.11
BUDGET MANAGER	C115	MID	6/21/2025	\$11,176.01	\$11,734.79	\$12,321.56	\$12,937.62	\$13,584.50
BUILDING INSPECTION SUPERVISOR	B155	BSPA	6/21/2025	\$9,308.14	\$9,773.55	\$10,262.22	\$10,775.33	\$11,314.10
BUILDING INSPECTOR I	A140	BPSEA	6/21/2025	\$6,265.98	\$6,579.30	\$6,908.24	\$7,253.67	\$7,616.34
BUILDING INSPECTOR II	A141	BPSEA	6/21/2025	\$6,892.16	\$7,236.77	\$7,598.60	\$7,978.53	\$8,377.46
CITY CLERK	N110	ELECT	7/1/2012	\$1,078.67				
CITY ENGINEER	C130	MID	6/21/2025	\$13,258.57	\$13,921.51	\$14,617.59	\$15,348.45	\$16,115.88
CITY MANAGER	G110	CONTRACT	6/21/2025	\$20,211.13				
CITY MANAGER	G110	CONTRACT	6/21/2026	\$20,589.31				
CITY MANAGER	G110	CONTRACT	6/21/2027	\$22,690.83				
COMMUNITY DEV COORDINATOR	B158	BSPA	6/21/2025	\$6,142.13	\$6,449.23	\$6,771.70	\$7,110.28	\$7,465.78
COMMUNITY PRESERVATION OFFICER	A145	BPSEA	6/21/2025	\$6,708.54	\$7,043.97	\$7,396.20	\$7,765.98	\$8,154.29
COMMUNITY SERVICE OFFICER I	I120	BDA	6/21/2025	\$5,355.35	\$5,623.11	\$5,904.27	\$6,199.46	\$6,509.45
COMMUNITY SERVICE OFFICER II	I121	BDA	6/21/2025	\$5,890.53	\$6,185.06	\$6,494.31	\$6,819.04	\$7,159.99
COMMUNITY SERVICES DIRECTOR	E145	SENIOR	6/21/2025	\$13,594.78	\$14,274.52	\$14,988.25	\$15,737.65	\$16,524.54
COUNCIL MEMBER	N120	ELECT	7/1/2012	\$393.59				
DEPUTY CDD DIR/BLDG OFFICIAL	C119	MID	6/21/2025	\$12,274.43	\$12,888.16	\$13,532.56	\$14,209.19	\$14,919.65
DEPUTY CITY CLERK	B170	BSPA	6/21/2025	\$7,434.56	\$7,806.28	\$8,196.60	\$8,606.42	\$9,036.75
DEPUTY CITY MANAGER	E160	SENIOR	6/21/2025	\$13,412.34	\$14,082.97	\$14,787.10	\$15,526.47	\$16,302.78
DEPUTY POLICE CHIEF	K125	PDMGT	6/21/2025	\$16,476.43	\$17,300.26	\$18,165.27	\$19,073.53	\$20,027.21
DEPUTY PW DIR CITY ENG	C255	MID	6/21/2025	\$14,065.04	\$14,768.30	\$15,506.71	\$16,282.05	\$17,096.15
DEPUTY PW DIR OPERATIONS	C265	MID	6/21/2025	\$14,065.04	\$14,768.30	\$15,506.71	\$16,282.05	\$17,096.15
DEPUTY PW DIR UTILITIES	C270	MID	6/21/2025	\$14,065.04	\$14,768.30	\$15,506.71	\$16,282.05	\$17,096.15
DEVELOPMENT SERVICES TECH I	A150	BPSEA	6/21/2025	\$4,906.00	\$5,151.29	\$5,408.86	\$5,679.30	\$5,963.28
DEVELOPMENT SERVICES TECH II	A151	BPSEA	6/21/2025	\$5,396.70	\$5,666.55	\$5,949.86	\$6,247.35	\$6,559.72
DIVISION FIRE CHIEF	D120	MID SAFETY	6/21/2025	\$12,504.04	\$13,129.24	\$13,785.70	\$14,474.99	\$15,198.74
ECONOMIC DEVELOPMENT MGR I	C140	MID	6/21/2025	\$10,035.32	\$10,537.10	\$11,063.95	\$11,617.13	\$12,198.00
ECONOMIC DEVELOPMENT MGR II	C150	MID	6/21/2025	\$12,041.96	\$12,644.03	\$13,276.24	\$13,940.06	\$14,637.06
ENGINEERING TECHNICIAN I	A160	BPSEA	6/21/2025	\$6,017.14	\$6,318.01	\$6,633.91	\$6,965.60	\$7,313.89
ENGINEERING TECHNICIAN II	A161	BPSEA	6/21/2025	\$6,618.88	\$6,949.81	\$7,297.30	\$7,662.16	\$8,045.28
EXECUTIVE ASST TO CITY MANAGER	B190	BSPA	6/21/2025	\$6,142.12	\$6,449.22	\$6,771.68	\$7,110.28	\$7,465.77
EXECUTIVE ASST TO POLICE CHIEF	B191	BSPA	6/21/2025	\$5,741.55	\$6,028.63	\$6,330.07	\$6,646.56	\$6,978.89



City of Benicia - Full Time Monthly Salary Schedule

For questions, contact Human Resources at (707) 746-4766

Classification Title	Grade	Unit	Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5
FIELD UTILITIES STREETS APPR	A170	BPSEA	6/21/2025	\$5,700.64	\$5,985.67	\$6,284.94	\$6,599.20	\$6,929.15
FIELD UTILITIES STREETS JRNY	A180	BPSEA	6/21/2025	\$6,264.43	\$6,577.66	\$6,906.54	\$7,251.86	\$7,614.46
FIELD UTILITIES STREETS SUP	B195	BSPA	6/21/2025	\$10,107.01	\$10,612.37	\$11,142.98	\$11,700.13	\$12,285.14
FINANCE DIRECTOR	E110	SENIOR	6/21/2025	\$14,459.74	\$15,182.72	\$15,941.87	\$16,738.97	\$17,575.92
FIRE CAPTAIN	L110	BFA	6/21/2025	\$10,429.75	\$10,951.24	\$11,498.80	\$12,073.74	\$12,677.43
FIRE CHIEF	F110	SEN SAFETY	6/21/2025	\$17,435.50	\$18,307.28	\$19,222.63	\$20,183.77	\$21,192.97
FIRE ENGINEER	L130	BFA	6/21/2025	\$9,460.09	\$9,933.09	\$10,429.75	\$10,951.24	\$11,498.80
FIRE LIEUTENANT	L115	BFA	6/21/2025	\$9,933.09	\$10,429.75	\$10,951.24	\$11,498.80	\$12,073.74
FIRE PREVENTION INSPECTOR	A190	BPSEA	6/21/2025	\$6,892.16	\$7,236.77	\$7,598.60	\$7,978.53	\$8,377.46
FIRE PREVENTION INSPECTOR II	A191	BPSEA	6/21/2025	\$7,581.37	\$7,960.45	\$8,358.48	\$8,776.40	\$9,215.22
FIREFIGHTER	L120	BFA	6/21/2025	\$8,190.55	\$8,600.08	\$9,030.09	\$9,481.59	\$9,955.67
GIS COORDINATOR	B210	BSPA	6/21/2025	\$7,787.25	\$8,176.62	\$8,585.45	\$9,014.72	\$9,465.45
HUMAN RESOURCES ANALYST I	H129	BSPA UNREP	6/21/2025	\$6,734.27	\$7,070.99	\$7,424.53	\$7,795.75	\$8,185.55
HUMAN RESOURCES ANALYST II	H130	BSPA UNREP	6/21/2025	\$7,407.69	\$7,778.08	\$8,166.98	\$8,575.32	\$9,004.10
HUMAN RESOURCES ASSISTANT	A220	BPSEA	6/21/2025	\$5,124.83	\$5,381.07	\$5,650.12	\$5,932.63	\$6,229.26
HUMAN RESOURCES MANAGER	C151	MID	6/21/2025	\$12,328.24	\$12,944.64	\$13,591.88	\$14,271.47	\$14,985.05
HUMAN RESOURCES TECHNICIAN	A210	BPSEA	6/21/2025	\$5,251.90	\$5,514.49	\$5,790.23	\$6,079.74	\$6,383.72
INFORMATION TECHNOLOGY ASST	A240	BPSEA	6/21/2025	\$4,659.96	\$4,892.95	\$5,137.59	\$5,394.46	\$5,664.19
INFORMATION TECHNOLOGY MANAGER	C160	MID	6/21/2025	\$11,797.59	\$12,387.47	\$13,006.84	\$13,657.20	\$14,340.06
IRRIGATION SPECIALIST	A230	BPSEA	6/21/2025	\$5,724.01	\$6,010.21	\$6,310.70	\$6,626.25	\$6,957.57
IT ANALYST I	B215	BSPA	6/21/2025	\$6,674.94	\$7,008.69	\$7,359.11	\$7,727.09	\$8,113.44
IT ANALYST II	B216	BSPA	6/21/2025	\$7,342.99	\$7,710.12	\$8,095.63	\$8,500.42	\$8,925.43
LABORATORY ANALYST	A250	BPSEA	6/21/2025	\$8,121.83	\$8,527.93	\$8,954.33	\$9,402.05	\$9,872.14
LABORATORY TECHNICIAN I	A260	BPSEA	6/21/2025	\$6,725.70	\$7,061.98	\$7,415.09	\$7,785.84	\$8,175.12
LABORATORY TECHNICIAN II	A261	BPSEA	6/21/2025	\$7,390.88	\$7,760.42	\$8,148.44	\$8,555.86	\$8,983.65
LIBRARIAN I	C170	MID	6/21/2025	\$5,707.15	\$5,992.51	\$6,292.14	\$6,606.75	\$6,937.09
LIBRARIAN II	C171	MID	6/21/2025	\$6,278.67	\$6,592.60	\$6,922.24	\$7,268.34	\$7,631.76
LIBRARY MANAGER	C180	MID	6/21/2025	\$8,303.61	\$8,718.78	\$9,154.71	\$9,612.45	\$10,093.08
LIBRARY SUPERINTENDENT	E119	SENIOR	6/21/2025	\$13,133.47	\$13,790.13	\$14,479.64	\$15,203.62	\$15,963.79
LIBRARY TECHNICIAN I	B225	BSPA	6/21/2025	\$4,115.41	\$4,321.15	\$4,537.23	\$4,764.09	\$5,002.28
LIBRARY TECHNICIAN II	B226	BSPA	6/21/2025	\$4,526.50	\$4,752.82	\$4,990.46	\$5,239.99	\$5,501.98
LITERACY PROGRAM SUPERVISOR	B235	BSPA	6/21/2025	\$5,428.51	\$5,699.92	\$5,984.93	\$6,284.16	\$6,598.39
MAINTENANCE CUSTODIAN	A290	BPSEA	6/21/2025	\$4,403.44	\$4,623.60	\$4,854.80	\$5,097.53	\$5,352.40
MAINTENANCE TECHNOLOGIST I	A270	BPSEA	6/21/2025	\$7,559.13	\$7,937.09	\$8,333.95	\$8,750.64	\$9,188.18
MAINTENANCE TECHNOLOGIST II	A271	BPSEA	6/21/2025	\$8,306.74	\$8,722.08	\$9,158.18	\$9,616.11	\$10,096.91
MAINTENANCE WORKER III PCS	A280	BPSEA	6/21/2025	\$6,268.92	\$6,582.37	\$6,911.48	\$7,257.07	\$7,619.91
MAINTENANCE WORKER III PW	A285	BPSEA	6/21/2025	\$7,133.55	\$7,490.23	\$7,864.74	\$8,257.97	\$8,670.87
MANAGEMENT ANALYST I	B245	BSPA	6/21/2025	\$6,758.46	\$7,096.40	\$7,451.23	\$7,823.78	\$8,214.97
MANAGEMENT ANALYST II	B246	BSPA	6/21/2025	\$7,434.56	\$7,806.28	\$8,196.60	\$8,606.42	\$9,036.75
MAYOR	N130	ELECT	7/1/2012	\$525.09				
MECHANIC	A305	BPSEA	6/21/2025	\$6,524.51	\$6,850.75	\$7,193.28	\$7,552.95	\$7,930.59
PARAMEDIC FIREFIGHTER	L140	BFA	6/21/2025	\$9,009.61	\$9,460.09	\$9,933.09	\$10,429.75	\$10,951.24
PARAMEDIC FIREFIGHTER TRAINEE	L142	PD/FFTRAIN	6/21/2025	\$6,306.73				
PARKS BLDG MAINT SUPERVISOR	B255	BSPA	6/21/2025	\$10,107.01	\$10,612.37	\$11,142.98	\$11,700.13	\$12,285.14
PARKS COMM SVCS SUPERINTENDENT	C190	MID	6/21/2025	\$9,438.62	\$9,910.56	\$10,406.09	\$10,926.38	\$11,472.70
PAYROLL ANALYST I	B257	BSPA	6/21/2025	\$6,758.46	\$7,096.40	\$7,451.23	\$7,823.78	\$8,214.97



City of Benicia - Full Time Monthly Salary Schedule
For questions, contact Human Resources at (707) 746-4766

Classification Title	Grade	Unit	Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5
PAYROLL ANALYST II	B258	BSPA	6/21/2025	\$7,434.56	\$7,806.28	\$8,196.60	\$8,606.42	\$9,036.75
PERMIT SERVICES SPECIALIST	B575	BSPA	6/21/2025	\$8,272.78	\$8,690.43	\$9,121.72	\$9,577.81	\$10,056.70
PLANNING MANAGER	C200	MID	6/21/2025	\$11,495.17	\$12,069.94	\$12,673.44	\$13,307.10	\$13,972.45
PLBM JOURNEYMAN	A330	BPSEA	6/21/2025	\$5,451.54	\$5,724.12	\$6,010.33	\$6,310.84	\$6,626.38
PLBM WORKER	A340	BPSEA	6/21/2025	\$4,955.52	\$5,203.29	\$5,463.46	\$5,736.64	\$6,023.46
POLICE CHIEF	F120	SEN SAFETY	6/21/2025	\$18,124.07	\$19,030.28	\$19,981.79	\$20,980.89	\$22,029.93
POLICE LIEUTENANT	K120	PDMGT	6/21/2025	\$14,395.74	\$15,115.53	\$15,871.31	\$16,664.89	\$17,498.11
POLICE OFFICER	J110	BPOA	6/21/2025	\$9,033.73	\$9,485.38	\$9,959.68	\$10,457.66	\$10,980.53
POLICE RECORDS CLERK	I150	BDA	6/21/2025	\$5,355.35	\$5,623.11	\$5,904.27	\$6,199.46	\$6,509.45
POLICE RECORDS SUPERVISOR	B260	BSPA	6/21/2025	\$6,275.52	\$6,589.29	\$6,918.76	\$7,264.72	\$7,627.94
POLICE SERGEANT	J120	BPOA	6/21/2025	\$10,840.92	\$11,382.95	\$11,952.12	\$12,549.74	\$13,177.23
POLICE TRAINEE	I155	PD/FFTRAIN	6/21/2025	\$6,323.61	\$6,639.77	\$6,971.78	\$7,320.36	\$7,686.37
PRINCIPAL CIVIL ENGINEER	C210	MID	6/21/2025	\$12,150.67	\$12,758.21	\$13,396.11	\$14,065.91	\$14,769.21
PRINCIPAL PLANNER	C220	MID	6/21/2025	\$10,947.80	\$11,495.17	\$12,069.95	\$12,673.45	\$13,307.12
PROJECT MANAGER	C230	MID	6/21/2025	\$11,101.07	\$11,656.13	\$12,238.93	\$12,850.88	\$13,493.42
PUBLIC SAFETY DISPATCH I	I140	BDA	6/21/2025	\$6,184.89	\$6,494.14	\$6,818.84	\$7,159.79	\$7,517.78
PUBLIC SAFETY DISPATCH II	I141	BDA	6/21/2025	\$6,494.14	\$6,818.84	\$7,159.79	\$7,517.78	\$7,893.67
PUBLIC SAFETY DISPATCH SUP	I129	BDA	6/21/2025	\$7,421.87	\$7,792.97	\$8,182.63	\$8,591.74	\$9,021.33
PUBLIC WORKS DIRECTOR	E150	SENIOR	6/21/2025	\$16,938.88	\$17,785.81	\$18,675.11	\$19,608.87	\$20,589.31
PUBLIC WORKS INSPECTOR	A350	BPSEA	6/21/2025	\$7,344.88	\$7,712.13	\$8,097.75	\$8,502.62	\$8,927.76
PUBLIC WORKS MAINT SUPT	C240	MID	6/21/2025	\$12,150.67	\$12,758.21	\$13,396.11	\$14,065.91	\$14,769.21
RECREATION ASSISTANT	A370	BPSEA	6/21/2025	\$4,983.72	\$5,232.89	\$5,494.54	\$5,769.26	\$6,057.74
RECREATION COORDINATOR	A360	BPSEA	6/21/2025	\$6,399.20	\$6,719.17	\$7,055.13	\$7,407.88	\$7,778.29
RECREATION MANAGER	C272	MID	6/21/2025	\$8,463.13	\$8,886.28	\$9,330.60	\$9,797.12	\$10,286.98
RECREATION SUPERVISOR	B265	BSPA	6/21/2025	\$7,052.59	\$7,405.23	\$7,775.50	\$8,164.27	\$8,572.49
SENIOR ACCOUNT CLERK	A425	BPSEA	6/21/2025	\$4,983.72	\$5,232.89	\$5,494.54	\$5,769.26	\$6,057.74
SENIOR ACCOUNTANT	B275	BSPA	6/21/2025	\$7,873.26	\$8,266.92	\$8,680.26	\$9,114.28	\$9,569.98
SENIOR ACCOUNTING TECHNICIAN	A390	BPSEA	6/21/2025	\$6,304.86	\$6,620.10	\$6,951.10	\$7,298.65	\$7,663.60
SENIOR ADMINISTRATIVE CLERK	A405	BPSEA	6/21/2025	\$4,880.47	\$5,124.48	\$5,380.72	\$5,649.73	\$5,932.23
SENIOR CIVIL ENGINEER	B285	BSPA	6/21/2025	\$11,101.07	\$11,656.13	\$12,238.93	\$12,850.88	\$13,493.42
SENIOR FINANCIAL ANALYST	B263	BSPA	6/21/2025	\$9,718.26	\$10,204.17	\$10,714.39	\$11,250.11	\$11,812.62
SENIOR HUMAN RESOURCE ANALYST	H120	BSPA UNREP	6/21/2025	\$8,148.70	\$8,556.14	\$8,983.95	\$9,433.15	\$9,904.80
SENIOR HUMAN RESOURCES TECH	A212	BPSEA	6/21/2025	\$6,039.69	\$6,341.68	\$6,658.76	\$6,991.70	\$7,341.30
SENIOR IT ANALYST	B217	BSPA	6/21/2025	\$8,444.42	\$8,866.65	\$9,309.97	\$9,775.48	\$10,264.25
SENIOR LIBRARIAN	C280	MID	6/21/2025	\$7,220.12	\$7,581.14	\$7,960.18	\$8,358.20	\$8,776.12
SENIOR MECHANIC	A415	BPSEA	6/21/2025	\$7,378.54	\$7,747.46	\$8,134.84	\$8,541.58	\$8,968.66
SENIOR MGMNT ANALYST	B305	BSPA	6/21/2025	\$8,178.00	\$8,586.90	\$9,016.24	\$9,467.04	\$9,940.42
SENIOR PLANNER	B295	BSPA	6/21/2025	\$8,888.80	\$9,333.24	\$9,799.90	\$10,289.89	\$10,804.38
TREASURER	N140	ELECT	7/1/2012	\$200.00				
WASTEWATER OPERATOR I	A435	BPSEA	6/21/2025	\$6,274.89	\$6,588.63	\$6,918.06	\$7,263.96	\$7,627.16
WASTEWATER OPERATOR II	A436	BPSEA	6/21/2025	\$7,039.36	\$7,391.34	\$7,760.89	\$8,148.94	\$8,556.38
WASTEWATER OPERATOR III	A437	BPSEA	6/21/2025	\$7,743.29	\$8,130.46	\$8,536.97	\$8,963.83	\$9,412.02
WASTEWATER PLANT SUPERVISOR	B335	BSPA	6/21/2025	\$10,107.01	\$10,612.37	\$11,142.98	\$11,700.13	\$12,285.14
WASTEWATER PLANT SUPT	C290	MID	6/21/2025	\$12,150.67	\$12,758.21	\$13,396.11	\$14,065.91	\$14,769.21
WATER OPERATOR II	A445	BPSEA	6/21/2025	\$6,871.95	\$7,215.54	\$7,576.31	\$7,955.14	\$8,352.89
WATER OPERATOR III	A446	BPSEA	6/21/2025	\$7,559.13	\$7,937.09	\$8,333.95	\$8,750.64	\$9,188.18



City of Benicia - Full Time Monthly Salary Schedule
For questions, contact Human Resources at (707) 746-4766

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Classification Title	Grade	Unit	Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5
WATER OPERATOR IV	A447	BPSEA	6/21/2025	\$8,306.74	\$8,722.08	\$9,158.18	\$9,616.11	\$10,096.91
WATER PLANT SUPERVISOR	B315	BSPA	6/21/2025	\$10,107.01	\$10,612.37	\$11,142.98	\$11,700.13	\$12,285.14
WATER PLANT SUPT	C310	MID	6/21/2025	\$12,150.67	\$12,758.21	\$13,396.11	\$14,065.91	\$14,769.21
WATER QUALITY SUPERVISOR	B325	BSPA	6/21/2025	\$10,107.01	\$10,612.37	\$11,142.98	\$11,700.13	\$12,285.14
WQ TECHNICIAN I	A460	BPSEA	6/21/2025	\$6,943.73	\$7,290.92	\$7,655.46	\$8,038.23	\$8,440.16
WQ TECHNICIAN II	A461	BPSEA	6/21/2025	\$7,638.10	\$8,020.01	\$8,421.01	\$8,842.06	\$9,284.16
WTP OPERATOR IN TRAINING	A310	BPSEA	6/21/2025	\$6,247.21	\$6,559.58	\$6,887.56	\$7,231.94	\$7,593.53
WW QUALITY TECHNICIAN I	A465	BPSEA	6/21/2025	\$6,072.94	\$6,376.60	\$6,695.42	\$7,030.20	\$7,381.70
WW QUALITY TECHNICIAN II	A466	BPSEA	6/21/2025	\$6,679.12	\$7,013.06	\$7,363.72	\$7,731.91	\$8,118.50
WWTP OPERATOR IN TRAINING	A320	BPSEA	6/21/2025	\$5,564.75	\$5,842.98	\$6,135.13	\$6,441.89	\$6,763.98
<i>Classifications for employees who might be Y-Rated. For non Y-Rated employees, please refer to the rates listed above and on pages 1-3.</i>								
LIBRARY TECHNICIAN II	Y226	BSPA	6/21/2025	\$4,878.75	\$5,122.69	\$5,378.82	\$5,647.76	\$5,930.15
SENIOR ADMIN CLERK (Y)	Y405	BPSEA	6/21/2024	\$4,999.83	\$5,249.82	\$5,512.31	\$5,787.93	\$6,077.33

Approved by Council on _____

Reso# 26- _____

Kim Imboden, Interim Human Resources Manager



City of Benicia - Part Time Hourly Salary Schedule

For questions, contact Human Resources at (707) 746-4766

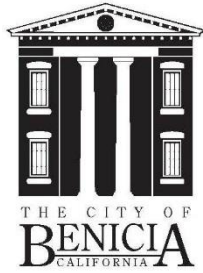
Classification Title	Grade		Effective Date	Step 1	Step 2	Step 3	Step 4	Step 5
ACCT CLERK I PT	M105	PART TIME	6/21/2025	\$23.77	\$24.96	\$26.20	\$27.51	\$28.89
ADMIN CLERK I PT	M131	PART TIME	6/21/2025	\$22.26	\$23.37	\$24.54	\$25.77	\$27.06
BUILDING MAINT WORKER ASST	M102	PART TIME	1/1/2025	\$18.97	\$19.92	\$20.91	\$21.96	\$23.06
COMMUNITY SVCS OFFICER I - PT	M135	PART TIME	6/21/2025	\$30.90	\$32.45	\$34.07	\$35.77	\$37.56
COMMUNITY SVCS OFFICER II - PT	M136	PART TIME	6/21/2025	\$33.99	\$35.69	\$37.48	\$39.35	\$41.32
COMPUTER I.T. INTERN/ASSISTANT	M280	PART TIME	8/21/2018	\$18.14	\$19.05	\$20.00	\$21.00	\$22.05
CUSTODIAN	M140	PART TIME	10/21/2020	\$17.84	\$18.73	\$19.67	\$20.65	\$21.68
ENGINEERING INTERN	M165	PART TIME	1/1/2026	\$16.90				
EXECUTIVE ASST TO CITY MGR PT	M191	PART TIME	6/21/2025	\$35.44	\$37.21	\$39.07	\$41.03	\$43.08
FACILITY ATTENDANT	M210	PART TIME	3/21/2023	\$17.20	\$18.06	\$18.96	\$19.90	\$20.91
FIRE PREVENTION INSP II PT	M245	PART TIME	6/21/2025	\$43.75	\$45.93	\$48.23	\$50.64	\$53.18
GED INSTRUCTOR	M260	PART TIME	11/21/2018	\$32.84	\$34.48	\$36.21	\$38.02	\$39.92
HUMAN RESOURCES MGR PT	M951	PART TIME	1/1/2026	\$71.14	\$74.70	\$78.43	\$82.35	\$86.47
INTERN I	M270	PART TIME	1/1/2026	\$16.90				
INTERN II	M271	PART TIME	1/1/2026	\$16.90	\$17.75	\$18.63	\$19.56	\$20.54
KINDERGYM INSTRUCTOR	M290	PART TIME	10/21/2020	\$18.44	\$19.36	\$20.34	\$21.35	\$22.42
LIBRARIAN I PT	M320	PART TIME	6/21/2025	\$32.93	\$34.58	\$36.31	\$38.12	\$40.03
LIBRARIAN II PT	M330	PART TIME	6/21/2025	\$36.23	\$38.04	\$39.94	\$41.94	\$44.04
LIBRARY AIDE	M335	PART TIME	1/1/2026	\$16.90	\$17.75	\$18.63		
LIBRARY ASSISTANT I	M340	PART TIME	10/21/2020	\$18.14	\$19.05	\$20.01	\$21.01	\$22.06
LIBRARY ASSISTANT II	M341	PART TIME	10/21/2020	\$19.95	\$20.96	\$22.00	\$23.10	\$24.26
LIBRARY MONITOR	M510	PART TIME	10/21/2020	\$18.09	\$19.00	\$19.94	\$20.95	\$21.99
LIBRARY TECHNICIAN II PT	M226	PART TIME	6/21/2025	\$26.12	\$27.43	\$28.80	\$30.24	\$31.75
LIFEGUARD	M350	PART TIME	1/1/2026	\$16.90	\$17.75	\$18.63	\$19.56	\$20.54
LIFEGUARD (SENIOR)	M360	PART TIME	1/1/2026	\$18.92	\$19.87	\$20.86	\$21.90	\$23.00
LITERACY SPECIALIST GRANT FUND	M380	PART TIME	12/21/2022	\$22.98	\$24.13	\$25.34	\$25.70	\$26.98
MANAGMENT ANALYST II PT	M246	PART TIME	6/21/2025	\$42.90	\$45.04	\$47.30	\$49.66	\$52.15
OFFICE ASSISTANT I	M390	PART TIME	1/1/2025	\$16.50				
OFFICE ASSISTANT II	M391	PART TIME	1/1/2025	\$16.50	\$17.33	\$18.19	\$19.10	\$20.06



City of Benicia - Part Time Hourly Salary Schedule

For questions, contact Human Resources at (707) 746-4766

OFFICE CLERK	M100	PART TIME	10/21/2020	\$18.98	\$19.93	\$20.93	\$21.97	\$23.07
PERMIT SERVICES SPECIALIST PT	M575	PART TIME	6/21/2025	\$46.57	\$48.89	\$51.34	\$53.90	\$58.03
POLICE AIDE	M410	PART TIME	10/21/2020	\$22.99	\$24.14	\$25.35	\$26.61	\$27.95
POLICE LIEUTENANT - PER DIEM	M420	PART TIME	6/21/2025	\$83.07	\$87.22	\$91.58	\$96.16	\$100.97
POLICE OFFICER - RESERVE PT	M435	PART TIME	9/21/2022	\$20.00				
POLICE OFFICER PT	M430	PART TIME	6/21/2025	\$52.13	\$54.73	\$57.47	\$60.34	\$63.36
POLICE SERGEANT PT	M440	PART TIME	6/21/2025	\$62.56	\$65.68	\$68.97	\$72.42	\$76.04
POOL COORDINATOR	M460	PART TIME	1/1/2026	\$21.18	\$22.25	\$23.35	\$24.53	\$25.76
PROGRAM COORDINATOR	M470	PART TIME	7/1/2006	\$16.50				
PUBLIC SAFETY DISPATCHER I PT	M170	PART TIME	6/21/2025	\$35.69	\$37.47	\$39.35	\$41.31	\$43.38
PUBLIC SAFETY DISPATCHER II PT	M171	PART TIME	6/21/2025	\$37.47	\$39.35	\$41.31	\$43.38	\$45.55
RECREATION LEADER	M480	PART TIME	1/1/2026	\$16.90	\$17.75	\$18.63	\$19.56	\$20.54
RECREATION SPECIALIST I	M490	PART TIME	1/1/2026	\$19.36	\$20.34	\$21.35	\$22.41	\$23.54
RECREATION SPECIALIST II	M491	PART TIME	3/21/2023	\$22.64	\$23.77	\$24.96	\$26.21	\$27.52
SEASONAL SENIOR LEAD PARK WORK	M550	PART TIME	1/1/2025	\$18.97	\$19.92	\$20.91	\$21.96	\$23.06
SENIOR PLANNER PT	M295	PART TIME	6/21/2025	\$51.29	\$53.86	\$56.55	\$59.38	\$62.35
SENIOR RECREATION LEADER	M150	PART TIME	1/1/2025	\$17.63	\$18.51	\$19.44	\$20.41	\$21.43
TINY TOT INSTRUCTOR	M560	PART TIME	10/21/2020	\$18.46	\$19.39	\$20.36	\$21.37	\$22.44
VOLUNTEER COORDINATOR	M570	PART TIME	10/21/2020	\$37.40	\$39.27	\$41.23	\$43.29	\$45.46



**AGENDA ITEM
CITY COUNCIL MEETING DATE – MAY 5, 2026
CONSENT CALENDAR**

TO : City Manager

FROM : Fire Chief

SUBJECT : **APPROVAL OF A BUDGET AMENDMENT TO PURCHASE
GRANT FUNDED EXTRICATION EQUIPMENT**

EXECUTIVE SUMMARY:

Benicia Fire Department staff applied for Metropolitan Transportation Commission (MTC)'s Traffic Incident Management Micro-Grant Program to fund four Holmatro extrication tools, commonly referred to as the "jaws of life." A FY26 budget amendment is required to appropriate grant revenue and authorize expenditures for the equipment.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) approving a budget amendment to increase Fire Department revenue budget and expense appropriations by \$76,144 to accept grant funds from the Metropolitan Transportation Commission and purchase four Holmatro extrication tools for the Benicia Fire Department.

BUDGET INFORMATION:

The total cost of the four Holmatro extrication tools is \$76,144. MTC has awarded the full cost of the equipment to the fire department through the Traffic Incident Management Micro-Grant program. A budget amendment in the amount of \$76,144 is required to increase grant revenue budget in account 0106000-5350 and equipment expenditure appropriations in account 0106000-7128 for non-capitalized equipment for Fiscal Year 2026 (FY26).

BACKGROUND:

In Fall 2025, Fire Department staff applied for funding through MTC's Traffic Incident Management Micro-Grant Program. The purpose of the grant is to support local public safety agencies by providing funding for equipment that enables faster and safer response to traffic incidents.

Staff applied for funding for four Holmatro extrication tools: a cutter, spreader, long ram, and short ram, collectively referred to as the "jaws of life." The Fire Department's existing extrication tools are over 20 years old and less powerful than extrication tools available on the market today. The proposed equipment is more portable, easier to operate, and significantly more powerful than the current tools. Replacement of the

existing equipment will enhance operational efficiency during vehicle accident response and improve the Department's ability to perform timely extrications. This will allow firefighters to access and remove victims more quickly, reducing extrication time and supporting improved patient outcomes.

At MTC's Regional Network Management Committee meeting on March 13, the Committee unanimously approved BFD's grant application. The grant will cover the full cost of the tools with no cost-match required by the City. A FY26 budget amendment is therefore required to appropriate grant revenue and authorize expenditures.

NEXT STEPS:

If Council approves the budget amendment, Fire Department staff will purchase the extrication tools and complete grant close out reporting.

ALTERNATIVE ACTIONS:

If Council does not approve the budget amendment, then grant funded extrication tools will not be acquired, and Fire crews will continue using existing extrication tools.

CEQA Analysis	This activity does not meet the definition of a project as described in Title 14 of the California Code of Regulations, §15378(a).

ATTACHMENT:

1. Resolution – Budget Amendment for Grant Funded Extrication Tools

For more information contact: Josh Chadwick, Fire Chief

Phone: 707-746-4275

E-mail: jchadwick@ci.benicia.ca.us

RESOLUTION NO. 26-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A BUDGET AMENDMENT TO INCREASE FIRE DEPARTMENT REVENUE BUDGET AND EXPENSE APPROPRIATIONS BY \$76,144 TO ACCEPT GRANT FUNDS FROM THE METROPOLITAN TRANSPORTATION COMMISSION AND PURCHASE FOUR HOLMATRO EXTRICATION TOOLS

WHEREAS, Benicia Fire Department staff applied for Metropolitan Transportation Commission (MTC)'s Traffic Incident Management Micro-Grant Program to fund four Holmatro extrication tools (commonly referred to as the "jaws of life") totaling \$76,144; and

WHEREAS, the Fire Department's existing extrication tools are over 20 years old and less powerful than extrication tools available on the market today; and

WHEREAS, the proposed equipment is more portable, easier to operate, and significantly more powerful than the current tools, which will allow firefighters to access and remove victims more quickly and support improved patient outcomes; and

WHEREAS, at MTC's Regional Network Management Committee meeting on March 13, 2026, the Committee unanimously approved BFD's grant application and will fully fund the cost of the tools with no cost-match required by the City; and

WHEREAS, A FY26 budget amendment is therefore required to increase the department's local grant revenue budget in 0106000-5350 by \$76,144 and increase expenditure appropriations in 0106000-7128 for non-capitalized equipment by \$76,144.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve a budget amendment to increase Fire Department revenue budget and expense appropriations by \$76,144 to accept grant funds from the Metropolitan Transportation Commission and purchase four Holmatro extrication tools for the Benicia Fire Department.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of May 2026 by the following vote:

Ayes:

Noes:

Absent:

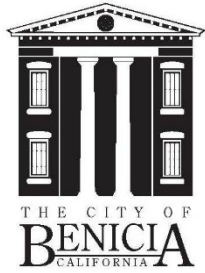
Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



AGENDA ITEM
CITY COUNCIL MEETING DATE – MAY 5, 2026
CONSENT CALENDAR

TO : City Council

FROM : City Manager

SUBJECT : **REVIEW CITY COUNCIL RULES OF PROCEDURE**

EXECUTIVE SUMMARY:

The City Council Rules of Procedure (Rules of Procedure) are being brought before Council for review. These Rules of Procedure state that they should be reviewed not less than annually, and appropriate changes made, if needed.

RECOMMENDATION:

Review the City Council Rules of Procedure (Attachment 1). Staff is not recommending any changes at this time.

BUDGET INFORMATION:

There are no financial or budgetary impacts associated with this action.

BACKGROUND:

The City Council Rules of Procedure establish guidelines governing Council operations, including meeting procedures, agenda structure, public participation, conduct of business items, formation of committees, boards and commissions, rules of order, staff support, and enforcement of procedural compliance.

The Rules of Procedure require review at least annually to ensure they remain current and effective. Accordingly, the Rules are being presented to the City Council for review.

NEXT STEPS:

Following Council review, the Rules of Procedure will remain in effect unless the Council directs staff to prepare amendments for future consideration.

ALTERNATIVE ACTIONS:

Council can:

- Direct staff to prepare revisions to the Rules of Procedure for future adoption; or
- Take no action, in which case the current Rules of Procedure will remain in effect.

CEQA Analysis	The requested action is exempt from CEQA because it will not result in a direct or indirect physical change in the environment and therefore is not a project as defined in CEQA Guidelines Section 15378.

ATTACHMENT:

1. Current City Council Rules of Procedure

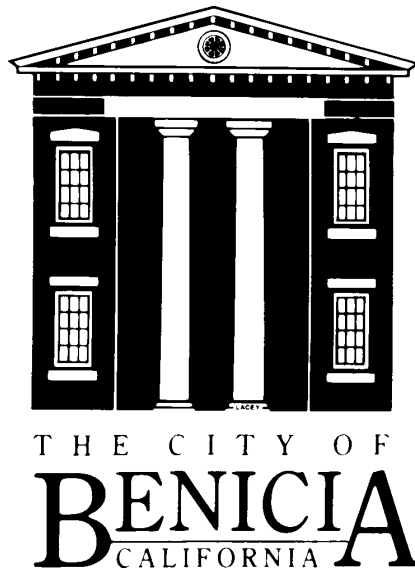
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City Council

Rules of Procedure



Created July 17, 2012
As Amended October 3, 2018
As Amended June 1, 2021
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As Amended June 18, 2024

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INTRODUCTION

These rules are assembled to make it easier for people to access city government so that they may be more informed about what the City is doing and so that they may be involved in a more meaningful and knowledgeable way. If these rules or the City's municipal code are silent on parliamentary rules, then the City shall be guided by Robert's Rules of Order. Open meetings and ethical guidelines help increase the public trust and confidence in the city government and will increase the public awareness and knowledge about their government. A well-educated public and ethical officials are essential to good government.

I. MEETINGS

A. REGULAR MEETINGS

The City Council holds regular meetings for the conduct of the City's business on the first, third, and fourth Tuesday of each month unless the meeting is cancelled. The first and third Tuesday regular meetings of the City Council are held in the City Council Chamber at City Hall unless the City Council Chamber are unavailable or inappropriate for the items proposed for the Council's agenda. The fourth Tuesday regular meeting is held in the Community Center unless it is unavailable or inappropriate for the items proposed for the agenda. The City Manager, in consultation with the Mayor, shall determine an alternative location if necessary.

B. SPECIAL MEETINGS

The City Council holds special meetings as necessary. Special meetings may be used for Closed Session items and for other items of business that require scheduling at a special meeting due to the need to take action prior to a regular meeting or that require a meeting devoted to the subject matter proposed for the meeting.

C. STUDY SESSIONS

The purpose of a study session is to meet with staff and various people, Boards, Commissions and Committees to receive briefings, background information, discuss policy issues and provide staff direction. A study session allows a range of meeting formats depending on the topic and allows for general discussion of major or controversial items before formal City Council action is required. The fourth Tuesday of the month is reserved for study sessions. Additional dates for study sessions may be scheduled as necessary. Study sessions may be scheduled as regular, adjourned regular or special meetings. Presentations to the City Council will be made by staff members, consultants, representatives of the City's Boards, Commissions and Committees or of other public agencies, and/or by any other person expressly invited for that purpose. Public comment on the item under consideration is allowed. No motions will be offered and no formal action by the City Council will be taken at the study session. The study session allows the Council Members (Members) to ask questions and express personal opinions about the item under consideration.

D. CONDUCT AT MEETINGS

In addition to complying with the Code of Conduct, City Council Members shall refrain from electronic communications during a meeting in order to avoid potential Brown Act or due process issues.

E. ADJOURNMENT

It is the desire of the City Council to adjourn their meetings by 10 p.m. Therefore, no new business will be taken up by the Council after 10 p.m. unless the City Council adopts a motion to continue. The remaining items will be placed on the next regular Council meeting in the appropriate section of the agenda, unless the City Council calls for a special meeting to consider one or more of the continued items. The Council shall review the agenda at approximately 9 p.m. to see if it is likely the agenda items will be completed by 10 p.m. or if items will probably be continued to the next regular meeting. If it appears items will be continued, the Council will let the audience know as soon as is practical. The Open Government Ordinance requirement for public comment on the item will occur when the item is scheduled unless a majority agrees to move it up.

II. AGENDAS

A. PREPARATION

The Mayor and the City Manager shall prepare an agenda for each meeting of the Council. Items to be included on the agenda must be submitted to the City Manager in writing by noon on the 7th working day preceding the regular meeting and, on the 5th working day preceding a special meeting.

B. TWO-STEP PROCESS

City Council Members may request that a policy matter be considered by the City Council using the Two-Step Process. A Council Member submits the Council Member Requested Agenda Item form ([Appendix A](#)) to the City Manager. The Council Member shall fill out the form as completely as possible. On a quarterly basis, the Council will review all completed Step 1 reports and decide by a majority of the Council whether to place on an agenda any of these items for Step 2, unless the request is urgent as detailed in Appendix A. If the City Manager determines there is an urgent need to hear Step 1, the City Manager shall place the item on an agenda based on the stated urgency and the City's agenda process.

C. LEGISLATIVE SUPPORT OR OPPOSITION

The City Manager, or City Attorney in the case of legal issues, is authorized to provide support or opposition on legislative matters provided that the support or opposition is consistent with the position taken by the League of California Cities and/or the Solano City/County Coordinating Council (4 C's). Typically, copies of this correspondence will be sent to Council via email in advance of distribution. Should a Council Member have

a question or concern, that Member will then have the opportunity to contact the City Manager prior to distribution. Occasionally same-day requests from the League of California Cities for letters, emails or faxes expressing support or opposition are received, and in these instances, advance distribution to Council would not be feasible.

In those cases where no position has been taken by either the League or 4 C's, then the request shall be agendized for Council review and direction. If timing is such that the request cannot be agendized prior to the specified response date, then the draft response will be emailed to the City Council in advance of distribution. Should a Council Member have a question or concern with the proposed response, that Member may then contact the City Manager or City Attorney for clarification and/or to request that the item be agendized for discussion. All letters authorized by the Council shall be signed by the Mayor.

D. REVIEW OF POLICY ITEM CONSIDERED IN PREVIOUS YEAR

City Council Members who voted with the majority on a particular policy issue may request that the full City Council rehear that policy matter. To do so, the requesting Council Member should prepare a brief write-up of the matter on the Council Member Requested Agenda Item form ([Appendix A](#)) and submit it to the City Manager. The request for review will be placed in the appropriate section of the agenda.

E. POLICY CALENDAR PROCESS

Council Members may request that a policy item be placed on a list of policy issues to be considered at a Quarterly Policy Issues Study Session Meeting. At this quarterly meeting, proposals are selected by majority vote of the Council for placement on the Policy Calendar.

At the quarterly meeting, the Council shall consider the following when deciding which policy proposals shall be calendared for Council consideration:

1. Time required for understanding by Council Members,
2. Time required for sufficient deliberation,
3. Time required for analysis and preparation of staff reports,
4. Time required for public understanding,
5. Council interest in subject,
6. Public interest in subject,
7. Conservation of staff time, and
8. Relationship to Council Priorities.

F. PLACEMENT OF AGENDA ITEMS

The Mayor and City Manager shall consider whether an item is time-sensitive, likely to generate a large number of public speakers, or is controversial when determining the order of the agenda items. These items will be placed earlier on the agenda in the appropriate section of the agenda. Items that have been continued from a prior meeting or items for reconsideration shall also be placed as early as possible on the agenda in the appropriate section of the agenda.

G. AGENDA PACKETS

The City Manager shall prepare, and provide to, each Council Member and the City Attorney, an electronic agenda packet not later than the Thursday preceding each regular meeting or two working days preceding each special meeting. The City Manager shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to every person who has requested the same in writing during the preceding year, has provided stamped self-addressed envelopes and has paid the applicable fee, if the request is to receive the packet by mail. A paper copy of the agenda packet will be available for those persons so requesting at the time the agenda is posted or upon distribution to all, or a majority of, the Council Members upon payment of the applicable fee. To the extent feasible, the agenda packet shall be available on-line.

H. REGULAR AGENDA

The first and third Tuesday regular meeting agenda shall consist of the following sections in order. The fourth Tuesday regular meeting agenda may omit items 6, 7, 8, 9 and 14 if not needed, and item 15 may be changed to Workshop.

1. CALL TO ORDER
2. CONVENE OPEN SESSION
3. ROLL CALL
4. PLEDGE OF ALLEGIANCE
5. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC
6. ANNOUNCEMENTS

This section includes announcements by the Mayor or Council Members.

7. PROCLAMATIONS

Proclamations are made before presentations for public convenience.

8. APPOINTMENTS

This section includes appointments to City Boards, Commissions and Committees.

9. PRESENTATIONS

Presentations are limited to a maximum of ten minutes to allow the Council to have adequate time to address the agendized items of business.

10.ADOPTION OF AGENDA

The Council, by majority vote, shall adopt the agenda as final. Following such adoption, agenda items may not be added, removed or their order changed unless by the unanimous consent of the Council Members present at the time the agenda was adopted as final. All matters shall be considered by the Council in the order listed on the agenda adopted as final, to the extent of time available. Only matters on the agenda as adopted final or modified under this section may be considered. Agenda items not considered or completed at a meeting for lack of time become agenda items at the following meeting per Section II.F.

11.OPPORTUNITY FOR PUBLIC COMMENTS

12.WRITTEN COMMENT

All written communications suitable for the agenda, received since the preparation of the subject agenda, addressed to or intended for the City Council, not otherwise included in the agenda and received by 2:00 P.M. the day of the Council meeting shall be included in the handout packet.

13.PUBLIC COMMENT

This section of the agenda is for members of the public to make comments to the City Council regarding non-agendized matters of general interest in accordance with the procedures set forth in Section III below.

14.CONSENT CALENDAR

Items listed under the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from a Council Member, staff, or a member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar. Routine agenda items that are under \$50,000 and/or are already included in the budget may be listed under the Consent Calendar.

15.BUSINESS ITEMS

This section of the agenda is for the business items of the City Council including Public Hearings, appeals, and status or informational reports from staff and the Council. Council Member requests for future agenda items under the two-step, legislative or consideration of items heard in the last year will be agendized here.

16.COUNCIL MEMBER COMMITTEE REPORTS

17.ADJOURNMENT

I. SPECIAL MEETING AGENDA

A special meeting agenda shall consist of the following sections in order:

1. CALL SPECIAL MEETING TO ORDER
2. CONVENE OPEN SESSION
3. ROLL CALL
4. PLEDGE OF ALLEGIANCE
5. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC
6. ADOPTION OF THE AGENDA (if multiple items are on the agenda)
7. OPPORTUNITY FOR PUBLIC COMMENT
8. WRITTEN COMMENT

All written communications suitable for the agenda, received since the preparation of the subject agenda, addressed to or intended for the City Council, not otherwise included in the agenda and received by 2:00 P.M. the day of the Council meeting shall be included in the handout packet. The handout packet shall be made available to Council and the public no less than 2-hours prior to the start of the meeting.

9. PUBLIC COMMENT

This section of the agenda is for members of the public to make comments to the City Council regarding non-agendized matters of general interest to the citizens of Benicia in accordance with the procedures set forth in Section III below.

10. BUSINESS ITEMS

This section of the agenda is for the City Council for the Closed Session, action items or study session matters.

11. ADJOURNMENT

III. PUBLIC PARTICIPATION

A. FUNDAMENTAL RIGHT

The City Council promulgates these rules in recognition of the public's fundamental right to speak on agenda items for a meaningful amount of time.

B. RECOGNITION

No person may address the Council without the permission of the Presiding Officer, or a majority of the quorum, or as otherwise required by law. Except as required by law, the Presiding Officer is obligated to recognize members of the Council and staff prior to opening up items for public comment.

C. ADDRESSING THE COUNCIL

Those persons desiring to speak on an agendized matter or under Opportunity for

Public Comment are requested to, but not required to, complete a Speaker's Card and present it to the City Clerk at the beginning of the meeting or upon their arrival in the Council Chambers. The Presiding Officer shall recognize speakers on an agendized matter, including Announcements, Appointments, Presentations, Proclamations, when that item is before the City Council for consideration.

The Presiding Officers shall recognize speakers on matters not on the agenda under the Opportunity for Public Comment portion of the agenda. Persons addressing the Council shall do so only at the speakers' rostrum and should begin, but are not required to do so, by stating their name and address for the records. All remarks shall be addressed to the Council as a body and not to any member thereof, or to staff, or the public.

No person shall be permitted to enter into any discussion without the permission of the Presiding Officer.

D. ACTION ON NON-AGENDIZED ITEMS

Any item raised by a member of the public which is not agendized, but may require Council action, shall be automatically referred to the City Staff for investigation and disposition, unless the item requires action to be taken by the Council at the meeting during which it was raised and constitutes an emergency or the need to take such action arose after the posting of the agenda within the meaning of Government Code §54954.2(b). In either event the Council is entitled to discuss the matter before making the determination required under said Government Code provision, and if either finding is made, may take action thereon.

E. TIME LIMITS FOR PUBLIC COMMENT

1. In order to allow the Council to have adequate time to address the agendized items of business, public comment under Opportunity for Public Comment will be limited to not more than three (3) minutes per speaker on non-agendized items. If a large number of the public desire to speak, the Council may agree to limit the time for each speaker to less than 3 minutes to allow the Council to address the agendized items of business.

2. Each speaker shall speak only once on an agenda item and limit his/her remarks to not more than three (3) minutes when speaking at the time of the agendized item unless a shorter time is authorized by Council.

3. In accordance with the Open Government Ordinance and to promote time efficiency, the Presiding Officer of any body may request speakers representing at least five identified public commentators of similar view to designate a spokesperson, and that designated spokesperson has 15 minutes to speak.

4. The time for speaking may be extended by the Presiding Officer with the consent of a majority of the Council.

5. Each speaker shall avoid repetition of the remarks of prior speakers and, when speaking at the time an agenda item is being considered, shall speak only to the specific agenda item under consideration.
6. Speakers may not concede any part of their allotted time to another speaker.

F. QUESTIONS

Following each speaker's remarks, each Council Member shall be given the opportunity to comment further and to address questions to the speaker. The speaker may not be permitted or required to answer such questions if a majority of Council Members present other than the questioner object.

G. PRESENTATIONS SUBMITTED IN WRITING

Persons who anticipate oral presentations exceeding the allowed time are encouraged to submit comments in writing at the earliest possible time, for distribution to the Council and other interested parties. Comments should be submitted at least one day in advance of the scheduled meeting date to ensure distribution to the Council prior to the meeting.

H. POWER POINT PRESENTATIONS

Members of the public may present a Power Point software presentation to the Council utilizing the City's audio/visual equipment, provided that the public make their request to the City Manager's Office 72 hours in advance of the meeting in order to coordinate the use of the equipment.

I. PROCLAMATION REQUESTS FROM OUTSIDE AGENCIES OR MEMBERS OF THE PUBLIC

Proclamations related to city-sponsored events or programs, or in recognition of significant community events, accomplishments, or public service of individuals or organizations that significantly benefit the City of Benicia and/or the community in general will be either mailed to the requestor or read and presented at Council meetings. At the discretion of the Mayor, a completed and timely submitted proclamation may be placed on the Council agenda to be presented in Council Chambers.

Impermissible subjects of city proclamations include requests to support candidates for elected public office, of a religious or political nature, or for campaigns or events contrary to city policies.

These keepsake proclamations are strictly honorary and do not carry any legislative or legal value, nor do they constitute an endorsement by the City of Benicia or the Benicia City Council.

Requests for proclamations may be made by the Mayor or any member of the City Council or a Benicia resident or a representative of a local organization for which the proclamation

is requested to the City Clerk's Office and will be considered on a case-by-case basis.

Proclamations will be processed by the City Clerk's Office for the Mayor's signature. The requester can either pick up the proclamation at City Hall or it will be mailed to the requester.

Requests should be submitted 4 weeks in advance of the requested date for the proclamation. Please include the following information with the request:

Contact person's first and last name, email contact, address and telephone number.

A brief summary and/or background of the event or organization.

The name and date(s) of the day, week, month or event to be recognized.

Proposed text for the proclamation, including 4-6 "whereas" clauses.

Whether the proclamation should be picked up or mailed.

Date when the proclamation is needed.

The City retains the right to modify, edit, or otherwise amend the proposed proclamation to meet its requirements, needs, or policy determinations.

The City reserves the right to decline any request for a proclamation.

IV. BUSINESS ITEM PROCEDURES

A. ONE HOUR FOR HEARINGS

Individual Business Items, including Public Hearings should not exceed one hour in length. To assist with this goal, time limits for public speakers may be limited in accordance with Section III.E.

B. PUBLIC HEARING AND APPEALS PROCEDURES

The procedures for Public Hearings and appeals are as follows:

1. Presentation by Staff.
2. Presentation by Proponent or Appellant.
3. Presentation by Opponent.
4. Comments from the Public.
5. Rebuttal by the Proponent or Appellant.
6. The Presiding Officer shall recognize supplemental speakers as required by

law or deemed appropriate to gather information relevant to the matter before the City Council. Supplemental speakers shall limit their remarks to presenting new information not already covered by other speakers, and must limit their presentation to three (3) minutes or the time established for speakers in accordance with Section III.E, if less.

7. Following the public portion of the hearing, the Presiding Officer shall declare the public portion of the hearing closed and the matter is then before the City Council for the Council portion of the hearing. Each Council Member shall be given an opportunity to speak to the subject without interruption. When the Council discussion has been concluded, the Council shall make its decision.

8. Spokespersons for the Proponent/Appellant and Opponent shall each have fifteen (15) minutes to present their case. The spokesperson for the Proponent/Appellant shall have five (5) minutes to present any rebuttal. Organized groups may choose a single spokesperson who may speak for the group. Speakers may not concede any part of their allotted time to another speaker.

V. CREATION OF BOARDS, COMMISSIONS AND COMMITTEES

A. CITIZEN BOARDS, COMMISSIONS AND COMMITTEES

The Council may create Boards, Commissions and Committees to assist in the conduct of the operation of the City Government with such duties as the Council may specify, not inconsistent with the City Code. Any Board, Commission or Committee so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. No Committee so appointed shall have powers other than advisory to the Council or to the City Manager, except as otherwise specified by the City Code.

B. MEMBERSHIP SELECTION

Unless otherwise specified by state law or the City Code, appointments shall be made by the following procedure:

1. A two-member Subcommittee appointed by the Mayor, which will rotate among Council Members with one new appointee each year, shall be appointed to interview applicants for all Boards, Commissions and Committees, unless otherwise provided for by statute, ordinance or resolution. The two-member subcommittee is encouraged to schedule the interviews with the Commission Chair relating to the vacancy for which the applicant is being considered for appointment, monitor the interview, and provide feedback to the Subcommittee after the interview. Both members of the City Council Subcommittee shall be appointed in December of each year, for a one-year term.

2. The subcommittee shall interview the applicants using standardized questions for all applicants, particularized questions for the particular Board or

Commission, and any other appropriate questions. The Subcommittee shall recommend one applicant to the Mayor for each vacancy and the Mayor may make the appointment from the recommended applicant. The Subcommittee shall provide comments to the Mayor on why they recommended the applicant. If the Mayor finds the recommendation acceptable, the comments shall be included in the agenda packet as part of the paperwork for the appointment.

3. If the applicant is not acceptable to the Mayor, the Mayor may propose an alternative applicant to be confirmed by the City Council. If any confirmation does not occur, then the Subcommittee shall recommend an additional applicant until an appointment is made by the Mayor, which shall be subject to final approval by the Council. The City Clerk shall call for the vote in the following order: Subcommittee Members, remaining Council Members, and the Mayor.

4. If, at any point during this process, only one qualified applicant is available, the Subcommittee may choose to make a single recommendation.

5. If the Subcommittee is unable to recommend applicants due to lack of qualified applicants, then the Mayor may elect to interview the available applicants and/or direct staff to conduct additional outreach efforts to fill the opening.

6. The names of the proposed appointees shall be posted five (5) working days prior to the appointment being made.

7. For appointments to a Board or Commission where state law provides for appointment by the Council as a whole, any Council Member may nominate a person for appointment. The Council shall then vote on the nominee at the following Council meeting.

8. If desired by the Member, Council Members who are not on the Subcommittee may interview any or all of the applicants. These Members shall use care not to violate the Brown Act by disclosing the information they learn from the interviews prior to the meeting where appointments are scheduled to be made.

C. REMOVAL OF MEMBERS OF BOARDS, COMMISSIONS AND COMMITTEES

The Council may remove any Member of any Board, Commission or Committee which it has created by an affirmative vote of at least four (4) members of the Council if removal is not specified in the City Code.

VI. RULES OF ORDER

A. QUORUM

Three Council Members shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings of the Board. If a quorum is not present within one hour after the time noticed for commencement of the meeting and thereafter any Council Member who was present at the end of such hour leaves and does not return, no meeting shall be held on that date notwithstanding the later presence of three (3) or more Council Members.

B. RIGHT TO THE FLOOR

A Council Member shall not have the right to the floor without being recognized by the Presiding Officer, except upon a point of order. Council Members, including the Mayor, shall avoid interrupting any Member while speaking.

C. ORDINANCES, RESOLUTIONS AND MOTIONS – PRECEDENTS

When any ordinance, resolution, or motion is properly brought before the Council and seconded by another Council Member, the council may discuss, debate, and offer other motions including a motion to amend or substitute. If a point of order, or a motion to adjourn, to table, to table to a time certain, to close debate, to refer or to amend, is made, no other action shall be considered until that motion or point of order is resolved. Such items shall have precedence in the order stated in the preceding sentence. Points of order shall be ruled upon by the Presiding Officer, provided that such ruling may be overridden by a majority of the Council. All points of order, or motions to adjourn, to table, to table to a time certain, to close debate, and to refer), except motions to amend, shall be put to a vote without debate and decided by a majority. Any of the foregoing motions shall be in order at anytime the speaker is duly recognized, except when repeated without intervening business or discussion, or if made when the motion to close debate has been adopted or while a vote is being taken:

1. MOTION TO ADJOURN

A motion to adjourn terminates the meeting.

2. MOTION TO TABLE

If a motion to table (without time certain) passes, consideration of the matter may be resumed only upon the motion of a member who voted with the majority on the motion to table.

3. MOTION TO CLOSE DEBATE

When a motion to close debate is duly made and seconded, there shall be no further debate. If the question carries, the Presiding Officer shall put pending amendments to a vote, without debate, in the inverse order of their introduction before putting the main question. If the question is decided negatively, the main question and its amendments remain before the Council.

4. MOTION TO REFER

A motion to refer the matter sends the matter to a committee or staff for investigating or studying the proposal and reporting back. If the motion to refer fails, the main question and its amendments remain before the Council.

5. MOTION TO AMEND

A motion to amend modifies or changes the motion that was being considered. If the motion to amend passes then the main motions should be voted on as amended.

6. DIVISION OF THE QUESTION

If a matter properly put before the Council contains two or more separable propositions, the Presiding Officer may, with the consent of one other Council Member, divide the question into its separable parts for consideration in order.

7. RECONSIDERATION

Providing that no intervening rights shall be prejudiced, any Council Member who voted with the majority on a question may move the reconsideration of that question at the same meeting in which the original decision was made or at the next following meeting. A motion for reconsideration must be made no later than the Monday before the agenda packet is published. After a motion for reconsideration has been acted upon, no other similar motion shall be made without unanimous consent.

D. VOTING

Unless otherwise required by applicable law, three affirmative votes are required to enact an ordinance, to adopt a resolution, or to adopt a motion granting a franchise or authorizing the payment or expenditure of money or incurring of a debt. The majority of a quorum is required to adopt other motions, unless otherwise required by applicable law. A "majority" refers to a majority of the quorum present. All matters shall be adopted by a roll call vote.

VII. STAFF SUPPORT

Staff support for requests from individual Council Members shall be limited to 15 minutes of staff time. Research, report writing, compilation of materials, etc. in excess of 15 minutes shall not be undertaken unless approved by a majority of the City Council.

VIII. COUNCIL MEMBER CORRESPONDENCE

Because the City Council performs as a body, it is important that general guidelines be understood when speaking as a Council Member. Equally important, when members are expressing personal views and not those of the City Council, the public should be so advised.

Members of the City Council may occasionally be called upon to write letters to citizens, businesses or other public agencies. Typically, the Mayor will be charged with transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Correspondence sent on behalf of the City Council is placed on official City letterhead and is signed by the Mayor or City Manager. Individual members of the City Council may prepare letters to constituents in response to inquiries or to provide requested information on City issued letterhead personalized for each member of the Council. Council Members are required to provide copies of any correspondence on this City personalized letterhead to every Council Member and the City Manager.

On occasion, Members may wish to transmit correspondence on an issue upon which the City Council has yet to take a position or about an issue for which the City Council has no position. In these circumstances, Members should use their personalized letterhead and clearly indicate within letters that they are not speaking for the City Council as a whole, but for themselves as one member of the City Council. After the City Council has taken a position on an issue, official correspondence should reflect this position. While Members who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official City Council title, and staff support should not be utilized in order to avoid confusion. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.

Council Members may be asked to prepare letters of recommendation for students and others seeking appointment. It is appropriate for individual Council Members to utilize City issued personalized letterhead for such letters. No review by the full City Council is required; however, copies will be kept on file.

For letters regarding legislative issues, refer back to Rule II.C.

IX. FAILURE TO OBSERVE RULES OR PROCEDURES

The failure to observe any of the rules or procedures does not serve as an independent source of challenge to any decision or action of the City Council, nor does it serve as evidence of improper conduct in any challenge to any action by a City Council Member or by the Council as a whole.

X. REVIEW OF THE RULES OF PROCEDURE

The City Council shall review these Rules of Procedure not less than annually and make any appropriate changes.

APPENDIX A: COUNCIL MEMBER REQUESTED AGENDA ITEM

Requested by: _____

Priority Ranking:

1 = Not urgent

2 = Not urgent, important

3 = Urgent, and important

Deadline for Action (Requested Council meeting date?), if any:

Title of Item for Consideration:

Summary of Issue: _____

Why Should the City Council take this Issue Up?

What is the Intended Action for Council to decide (Recommended Action/Motion)?

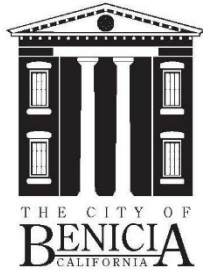
What is the Impact/Consequence for Action or Non-Action?

Staff Comments on the Request:

COUNCIL DIRECTION

- ☐ No Further Action
- ☐ Schedule for Second Step on _____
- ☐ Schedule for Policy Calendar Review on _____
- ☐ Refer to: Staff _____
 Commission _____ Board ____ Committee ____

Date Due: _____



AGENDA ITEM
CITY COUNCIL MEETING DATE – MAY 5, 2026
CONSENT CALENDAR

TO : City Council

FROM : City Attorney

SUBJECT : **AMENDMENTS TO THE CITY'S CONFLICT OF INTEREST CODE**

EXECUTIVE SUMMARY:

Pursuant to Government Code section 87302, the City is required to review its conflict of interest code every two (2) years to determine if amendments are needed. Staff has reviewed the code and determined that updates are needed. Changes include updating the designated positions to reflect current job titles and to add additional positions that are required to disclose financial interests.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) amending the City's conflict of interest code (Exhibit A).

BUDGET INFORMATION:

There are no financial or budgetary impacts associated with the adoption of this resolution.

BACKGROUND:

Each local agency is required to adopt a conflict of interest code to cover positions not listed in Government Code section 87200. The Political Reform Act allows agencies to adopt the provisions of Title 2, California Code of Regulations, section 18730. In 1990, the City adopted these provisions and designated positions subject to the disclosure provisions. These positions have duties that may involve the participation in governmental decisions that may have a material effect on financial interests.

State law requires that these public officials disclose economic interests that could be impacted by the officials' decisions. Whether the official is required to disclose his/her economic interest(s) is determined by his/her position being listed in either Government Code section 87200 or the local agency's conflict of interest code. State law requires the City to review its conflict of interest code every two (2) years to ensure that it properly designates all City officials who are required to disclose economic interests.

Staff has reviewed the City's conflict of interest code and Appendix A (designated positions) and recommends that Appendix A be revised to include a new position with

the appropriate disclosure category, update the titles of certain positions, and to remove positions which no longer exist.

NEXT STEPS:

If the City Council approves the resolution revising Appendix A, the revised Appendix A will become effective immediately.

ALTERNATIVE ACTIONS:

None.

CEQA Analysis	This Ordinance is exempt from CEQA because it is not a “project” per 14 CCR §§ 15378(b)(4) and (5).

ATTACHMENT:

1. Resolution - Amending the City’s Conflict of Interest Code
Exhibit A - Redlines Version of Appendix A

For more information contact: Ben Stock, City Attorney

Phone: (707) 746-4212

E-mail: bstock@ci.benicia.ca.us

RESOLUTION NO. 26-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING
THE CITY'S CONFLICT OF INTEREST CODE**

WHEREAS, the Political Reform Act of 1974, Government Code section 87100 et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes; and

WHEREAS, the Fair Political Practices Commission ("FPPC") has adopted a regulation at Title 2, California Code of Regulations, section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the FPPC after public notice and hearings to confirm amendments in the Political Reform Act; and

WHEREAS, the City has previously adopted the FPPC's standard Conflict of Interest Code as the City's Conflict of Interest Code by Resolution No. 90-200; ; and

WHEREAS, the City Council amended the City's Conflict of Interest Code in 2022 by Resolution No. 22-114; and

WHEREAS, the City Council again desires to update and amend the City's current Conflict of Interest Code to incorporate certain positions which have been added to the organization, deleted, and/or have revised titles of existing positions, by amending Appendix A (Exhibit A), which designates the positions required to file conflict of interest disclosure forms.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby adopt this resolution amending Appendix A to the City of Benicia Conflict of Interest Code in its entirety as set forth in the attachment to this Resolution.

BE IT FURTHER RESOLVED that all other provisions of the City of Benicia Conflict of Interest Code shall remain in full force and effect.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of May 2026 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Exhibit A
Redlines Version of Appendix A
[see next page]

CONFLICT OF INTEREST CODE

for the

City of Benicia

DESIGNATED POSITION

DISCLOSURE CATEGORY

COMMISSIONS¹

Historic Preservation Review Commission	1

Open Government Commission	1

CITY MANAGER'S OFFICE¹

Assistant City Manager/ <u>Development Services Director</u>	1

Deputy City Manager	<u>1</u>

Economic Development Manager I/II	1

Economic Development Specialist	2

Human Resources Director	1

Human Resources Manager	1

IT Analyst (I/II)	3

IT Manager	3

Management Analyst	2

Senior Management Analyst	2

Sr. Human Resources Analyst	2

FINANCE DEPARTMENT¹

~~Assistant~~ Finance Director	1

Senior Accountant	2

~~COMMUNITY~~ DEVELOPMENT SERVICES DEPARTMENT

¹ The following positions are required by statute (see Gov. Code §§ 87200-87209) to disclose investments; any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management; interests in real property; and, all sources of income (including gifts and loans): members of planning commissions, mayors, city managers, city attorneys, city treasurers, chief administrative officers, members of city councils, other public officials who manage public investments, and candidates for any of these offices. These "87200 filers" are not designated in the Code.

Associate Planner	1
Assistant Planner	1
Building Inspector	5
Chief Building Official	5
Development Services Technician	5
Director	1
Management Analyst	2
Principal Planner	1
Senior Planner	1
Planning Manager	2
FIRE DEPARTMENT	
Chief	1
Community Preservation Officer	5
Division Chief	5
Fire Marshal	5
Fire Prevention Inspector	5
Management Analyst	2
LIBRARY	
Library Director	1
Library Manager	2
PARKS and COMMUNITY SERVICES DEPARTMENT	
Community Services Superintendent	2
Director	1
Management Analyst	2
Parks and Building Maintenance Superintendent	2
POLICE DEPARTMENT	
Captain	1
Chief	1

IT Analyst II	3
Lieutenant	2
Management Analyst	2
PUBLIC WORKS DEPARTMENT	
Assistant Public Works Director/Utilities Manager	1
Deputy Public Works Director-Utilities	1
Deputy Public Works Director-Operations/City Engineer	1
City Engineer	1
Director	1
Maintenance Superintendent	2
Management Analyst	2
Project Manager	1
Principal Civil Engineer	2
<u>Public Works Inspector</u>	<u>5</u>
Senior Civil Engineer	4
Water Plant Superintendent	2
Waste Water Plant Superintendent	2
CONSULTANTS	See page 4
RETIRED ANNUITANTS	See page 4

DISCLOSURE CATEGORIES

The disclosure categories are based upon the Fair Political Practices Commission's Form 700. For example, if you are required to disclose investments and sources of income, you must disclose: investments and sources of income that are located in, or doing business in, the City; are planning to do business in the City; or, that have done business during the previous two years in the City.

Please note the following:

- Gifts are reportable regardless of the location of the donor. For example, a state agency official with full disclosure must report gifts from sources located outside of California. (Designated employees should consult their disclosure categories to determine if the donor of a gift is of the type that must be disclosed.)
- For reporting interests in real property, property is considered to be located within the City's jurisdiction if any part of the property is: located in, or within, two miles of the City; or, if the property is located within two miles of any land owned or used by the City. Property within the City's jurisdiction must be reported as noted.

Please review the individual Fair Political Practices regulations and Form 700 instructions for a detailed explanation of the rules.

Category 1

(Broadest Category)

Persons in this category must disclose: all investments; any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management; all interests in real property; and, all sources of income (including gifts and loans).

Category 2

(Suppliers, Contractors, Equipment, etc., Used by Department and Property)

Persons in this category must disclose: all investments; any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management; income (including gifts and loans) from sources that provide services, supplies, materials, machinery, or equipment of the type utilized by the person's Department; and, all interests in real property.

Category 3

(Computer Consultants or Equipment-Related)

Persons in this category must disclose: all investments; any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management; income (including gifts and loans) from sources that provide, supply, manufacture, or service computer hardware or software of the type utilized by the City.

Category 4

(Transportation-Related Services)

Persons in this category must disclose: all investments; any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management; income (including gifts and loans) from sources that provide transportation services subject to the review or approval of the City; and, all interests in real property.

Category 5

(Planning, Architectural, Building, Fire-Related Inspection or Review, and Property)

Persons in this category must disclose: all investments; any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management; income (including gifts and loans) from sources that provide planning, architectural, building, or fire services, including inspection subject to the review or approval of the Public Works Department, ~~Community-Development~~ Services Department, or Fire Department; and all interests in real property.

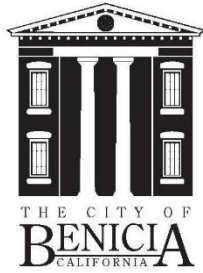
Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to Category 1, subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of limited-scope duties and thus is not required to file under Category 1. Such written determination shall include a description of the consultant’s duties, and based upon that description, a statement of the extent of alternate disclosure requirements. The City Manager’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Retired Annuitants

Retired annuitants who are appointed to positions corresponding to categories listed in this Code shall disclose under that position’s category.



AGENDA ITEM
CITY COUNCIL MEETING DATE – MAY 5, 2026
BUSINESS ITEM

TO : City Manager

FROM : Finance Director

SUBJECT : **ACCEPTANCE OF THE ANNUAL COMPREHENSIVE
FINANCIAL REPORT FOR THE FISCAL YEAR ENDED
JUNE 30, 2025**

**EXECUTIVE
SUMMARY:**

The City's auditor, Clifton Larson Allen, LLC (CLA), has completed the review of the annual financial statements for the fiscal year ended June 30, 2025 and has issued an unmodified audit opinion. The audited financial statements are incorporated into an Annual Comprehensive Financial Report (ACFR) which includes the independent auditors report, basic financial statements, required supplementary information, and internal compliance reports. The independent auditors report contained within the ACFR has expressed an unmodified opinion on the City's fiscal year 2024-25 financial statements, also referred to as a "clean" opinion, which is the desired result. The auditors report on internal control over financial reporting, separately issued, identified one material weakness, which is detailed in the attached corrective action plan. The City has addressed and fully corrected this concern.

RECOMMENDATION:

Move to accept, by minute order, the Annual Comprehensive Financial Report for the fiscal year ended June 30, 2025 (Attachment 1).

BUDGET INFORMATION:

There is no fiscal impact associated with this action.

BACKGROUND:

City Manager Administrative Instruction number 29 – Accounting, Auditing and Financial Reporting, requires that an annual audit will be performed by an independent public accounting firm with the subsequent issue of an official ACFR, including an audit opinion. The typical timeframe for local government audits begins with pre-audit work prior to the end of the fiscal year, includes audit field work and reporting at the conclusion of the fiscal year, and completes with issuance of the final report in late December. The City's Finance department has not completed the annual audit and issuance of reporting in the typical timeframe since the report for fiscal year ending June 30, 2016. The Finance department made incremental improvements in the timing for fiscal years ending in 2022, 2023, and 2024.

The completion of the 2025 report was delayed due to vacancies in the Finance Department in critical roles such as the Senior Accountant and Accounting Manager positions. Staff contracted with Beauchaine Consulting LLC for audit support and technical assistance as well as general accounting and finance support due to these vacancies. The Budget Manager also supported the audit process throughout each stage. Despite these challenges and delays, the ACFR has been completed successfully and with fewer findings compared to prior years. The City was not subject to a Single Audit in fiscal year 2024-2025.

In fiscal year 2024-25 CLA's report identified a deficiency in the City's internal controls, which was determined to be a material weakness. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected, on a timely basis. The Finance team has taken actions to address these deficiencies by contracting with a consultant to develop a documented reconciliation process for accrued payroll related liability accounts and establish procedures to distinguish between estimated accruals and actual claims incurred for self-funded benefit programs. Additional information is provided later in this report under Corrective Action Plan section.

It is important to note, that although these financial statements provide value, they represent a moment in time. The following is a summary of some of the major changes and important information from this year's report. Detailed narratives and charts are available in the Management's Discussion and Analysis of the ACFR.

Annual Comprehensive Financial Report

Citywide

- The City's total net position increased by 6.4 percent to \$231.8 million, bringing total Business Type Activities Net Position to \$127.3 million, and Governmental Activities to \$104.5 million at the close of the year.
- The largest portion of the City's net position (79.1 percent) reflects its net investment of \$177.5 million in capital assets. The City uses these capital assets to provide services to citizens, therefore they are not available for future spending.

General Fund Group

- The General Fund group is comprised of the General, Human Services Operations, Arts and Culture, Economic Development Activities, Cable, Library Development Impact Fee, Capital License, Payroll and Section 115 Trust funds.
- The General Fund Group's fund balance totaled \$43.8 million, an increase of \$7.1 million over the prior year.
- The General Fund is the largest Fund in the group. At the end of fiscal year (FY) 2024-25, the General Fund's fund balance totaled \$34.4 million, an increase of \$5.7 million over the prior year. General Fund balance is primarily identified as \$11.1 million reserved (32.2 percent), \$12.7 million committed (36.8 percent),

\$3.1 million prior period adjustment (7.1 percent) and \$7.5 million unassigned (21.9 percent). The prior period adjustment is to restate the prior year beginning balance of compensated absences in FY 2023-24 pursuant to the implementation of GASB 101, which changed the calculation standards.

- General Fund Group revenues for fiscal year 2024-25 were \$65.6 million, an increase of 6.2 million (10.4 percent) compared to the prior fiscal year.
 - Property taxes increased \$1.3 million primarily due to an increase in assessed valuations of 3.0%
 - The sales tax increase of \$3.1 million is primarily due to the enactment of Measure B, a 0.75% local sales tax in the General Fund
 - Utility user taxes increased by \$0.5 million primarily due to gas and electricity user taxes
 - Use of Money and Property increased \$0.3 million due to favorable market conditions
 - Current Service Charges increased \$0.4 million primarily within the General, Fire, and Community Services departments
 - Transient Occupancy Taxes (TOT) increased by \$0.2 million due to the passage of Measure A and increased auditing of the TOT program
 - Other revenue increased by \$0.6 million due to increased reimbursable overtime for the Fire Department
 - Other Taxes decreased by \$0.2 million due to decreases in unitary and cannabis tax revenue
- General Fund group expenditures for FY 2024-25 were \$54.8 million, an increase of less than \$2.1 million, or 4 percent compared to the prior fiscal year.

Wastewater Fund

- The City's wastewater utility fund collected \$12.6 million in user fees to maintain the system.
- The fund has \$40.1 million in capital assets net of accumulated depreciation and valued at historical cost.
- Net position increased by \$2.9 million. The increase in net position is due primarily to operating income of \$1.5 million and \$1.6 million in investment earnings.
- Increases in fund balance for the Wastewater Fund are set aside for future capital project needs to maintain and replace vital infrastructure.

Water Fund

- The City's water utility fund collected \$15.4 million in user fees to sustain the system.
- The system has \$36.6 million in capital assets net of accumulated depreciation and valued at historical cost, financed with \$4.3 million of long-term debt.
- In 2023 the City's main raw water transmission line incurred storm-related damage to the point of being inoperable. A temporary line was installed at a cost of \$1.6 million. The City applied for FEMA funding and the project for the temporary repair was approved. The City received reimbursement in FY 2025-26 for the federal and state portion.

- Permanent repairs and mitigation measures, in a joint project with the City of Fairfield, are anticipated to start in summer 2026. The City of Benicia's portion of the project costs is projected at \$3.6 million. The City has applied for Federal assistance for the permanent repairs and mitigation measures.

Marina

- The City's Marina collected \$0.3 million in user fees to support its operating and debt service costs.
- The Marina has \$1.8 million in capital assets net of accumulated depreciation and valued at historical cost, financed with \$0.7 million of long-term debt.
- The fund continues to receive support from the General Fund which totaled \$0.3 million in FY 2024-25.

Corrective Action Plan

The auditors identified one material weakness in their review of internal controls. The weakness and the corrective action is summarized below and in Attachment 3.

1. Restatement of Beginning Fund Balance

During the year ended June 30, 2025, management identified that the City had overstated its liability for Accrued Salaries and Benefits in the General Fund in prior financial statements as a result of an engagement with a consultant to perform balance sheet reconciliations for specific accounts. The consultant traced the payment of employee dental costs that had accumulated a balance over multiple years. The balance reflected dental premiums charged to the account in excess of actual dental claims and administrative costs incurred. As of the beginning of the fiscal year, this account included a balance of approximately \$846 thousand. The cause is due to the historical use of the dental liability account to record payroll-based premium calculations rather than actual claims incurred. Over time, premiums charged to the account exceeded actual dental costs paid, resulting in an accumulated balance. The effect is that Accrued Salaries and Benefits in the General Fund were overstated and the beginning fund balance was understated by \$846 thousand. To correct this, the City recorded a prior period adjustment to restate beginning fund balance and properly reflect this amount in the fund balance. The reconciliation process developed by the consultant will be performed annually. The Accounting Manager will review the reconciliation annually.

The City was proactive in identifying and correcting this misstatement, which resulted in a prior period adjustment and subsequent material weakness.

Summary Schedule of Prior Audit Findings

The auditors identified three material weaknesses in the prior year audit for fiscal year ending June 30, 2024. A status update on those items is presented in Attachment 3. Corrective actions have been completed on three of the four material weaknesses. The fourth item is related to the implementation of GASB Statement No. 87 on Leases.

There was a recurrence of this material weakness in FY 2023-24. The status is reflected in the current year material weakness.

NEXT STEPS:

Accept the Annual Comprehensive Financial Statements for the year ending June 30, 2025.

ALTERNATIVE ACTIONS:

None

CEQA Analysis	The Annual Comprehensive Financial Report for fiscal year ending June 30, 2025 is exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the “general rule” exemption which states that where it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment, the activity is exempt from CEQA.

ATTACHMENTS:

1. Annual Comprehensive Financial Report - Fiscal Year Ended June 30, 2025
2. Corrective Action Plan for the Fiscal - Year Ended June 30, 2025
3. Summary Schedule of Prior Audit Findings - Fiscal Year Ended June 30, 2025

For more information contact: Jeff Tschudi, Finance Director

Phone: 707-746-4222

E-mail: jtschudi@ci.benicia.ca.us

FISCAL YEAR ENDED
June 30, 2025

City of Benicia
Annual
Comprehensive
Financial
Report



CITY OF BENICIA
FINANCIAL STATEMENTS AND
SUPPLEMENTARY INFORMATION
YEAR ENDED JUNE 30, 2025

INTRODUCTORY SECTION

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April 20, 2026

Honorable Mayor Steve Young,
Members of the City Council, and
Citizens of the City of Benicia
Benicia, California:

The Annual Comprehensive Financial Report (ACFR) of the City of Benicia for the fiscal year ended June 30, 2025, is submitted for Council's review, and is published as a matter of public record for interested citizens.

The City of Benicia's financial statements have been audited by Clifton Larson Allen (CLA). The goal of the independent audit is to obtain reasonable assurance that the basic financial statements are free of material misstatement and are fairly presented in conformity with generally accepted accounting principles (GAAP). CLA issued an unmodified opinion for the fiscal year ended June 30, 2025. Their report is presented as the first component of the financial section of this report.

Management's Discussion & Analysis (MD&A) immediately follows the independent auditor's report and provides a narrative introduction, overview, and analysis of the basic financial statements. The MD&A is designed to complement this letter of transmittal and should be read in conjunction with it.

THE BENICIA GOVERNMENT

Benicia is in southern Solano County along the north bank of the Carquinez Strait, which connects Suisun Bay with San Pablo Bay, a northern extension of the San Francisco Bay. It is a waterfront city, known for its small-town charm, history, and high quality of life. Benicia has moderate mediterranean weather with dry, warm summers and moderate winters. It currently occupies 14 square miles and serves a population of approximately 26,477.

The City was incorporated on April 24, 1851, under the laws of the State of California. The City is a general law city administered by a council-manager form of government. Benicia is one of the few cities in California that is a full-service City, providing a wide range of municipal services to its citizens including administrative services (including human resources, finance, and information technology), city management, economic development, library, parks, planning and zoning, public safety (fire and police), public works, recreation, wastewater and water utilities.

City Council: The Council consists of a mayor and four council members elected to staggered four-year terms through a general election process. The City Council is responsible for, among other things, passing ordinances, adopting the budget, appointing committees, and hiring the City Manager and City Attorney. The City Manager is responsible for carrying out the policies and ordinances of the Council, overseeing the day-to-day operations of the City; and, for appointing directors of the various City departments.

THE BENICIA ECONOMY AND FISCAL CONDITIONS

Benicia's strategic setting on the Carquinez Strait has made it an attractive location as both a place to live and a place for industrial activity. While largely built out, families continue to be attracted to the City of Benicia's quiet tree-lined neighborhoods, good schools, low crime rate and historic charm.

Benicia Industrial Park: The Benicia Industrial Park (BIP) located near the junction of Interstate-680 and Interstate-780, and adjacent to the deep-water Port of Benicia, has easy access to most of the San Francisco Bay Area and beyond. BIP is home to over 455 businesses which generate approximately 71% of the local sales tax revenue collected and provides significant contributions to other local tax revenue streams (i.e., property tax and utility users tax). The business mix includes industrial and related uses such as petrochemical, manufacturing, wholesale trade, transportation, suppliers to major anchor businesses, and emerging new technology businesses.

Education and Unemployment: Benicia's population is well educated, with 47.6 percent of the population having a bachelor's degree. Unemployment in the City remains one of the lowest rates in Solano County.

Property tax: Property tax revenue remains the largest General Fund Group revenue source for the City, providing approximately 35.2 percent of the total General Fund Group revenues. Benicia's property tax revenue is approximately 65.7 percent residential, 24.3 percent commercial/industrial/institutional, 4.1 percent unsecured and 1.2 percent vacant, based on assessed values.

Sales tax: Sales tax revenue provides approximately 28 percent of the General Fund's total revenue. Revenue from Bradley Burns sales tax and Measure C, a local tax, remained consistent with the previous year. Measure B, a local general-purpose sales tax of three fourths of one cent was passed by the Benicia voters in March 2024, the tax became operative in October 2024. Measure F, put on the November 2024 ballot by a citizens' initiative, is a specific-purpose tax for repairing, maintaining, and improving Benicia's streets, roads, potholes and related sidewalks and storm drains was passed by the Benicia voters and became operative in April 2025. Measure F is collected in a separate fund. The City receives other sales tax revenues from the County and state that support library and police operations. The local sales tax revenues for FY 2024-25 are listed below.

Sales Tax Type	FY 2024-25 Revenue
Bradley Burns	6,328,972
Measure C	7,258,920
Measure B	3,960,187
Measure F	860,489

General Fund Reserves: In 2021-22 the City revised the fund balance policy to align with capital and operational priorities and set a more prescriptive distribution for unassigned fund balance to enhance the financial management of the City. The designation for fiscal uncertainty, maintained to stabilize City services in periods of operational deficits, remains at 20% of the General Fund annual appropriations excluding internal transfers of funds and funding of capital projects. The adopted budget for fiscal year 2024-2025 included potential use of \$0.2 million of the reserve for fiscal uncertainty and \$2.15 million from the Assignment for Employee and Salary Adjustments. Since the biennial budget adoption in June 2023, the City eliminated 10 full-time equivalent positions as part of the Revised Budget for FY 2024-25 thereby reducing the reliance on use of reserves. Based on year-end financial results, release from reserves was not required. The portion of fund balance not designated for the reserve for fiscal uncertainty is committed and assigned to the City's priorities of funding capital maintenance projects; funding the City's pension obligation; employee recruitment and retention; environmental sustainability; maintenance of the City's general plan; and employee salary adjustments.

As of the end of FY 2024-25, the balances of the reserve for fiscal uncertainty, along with committed and assigned fund balances, are presented in the following table. During the fiscal year, the City Council approved two reserve releases in September 2024 to partially offset costs associated with bargaining unit MOUs: (1) \$223,296 from the Recruitment and Retention Designation and (2) \$509,865.50 from the Employee Salary Adjustment Assignment, fully exhausting the assignment established prior to the current reserve policy. In addition, \$85,000 was released from the General Plan Maintenance Designation to support increased professional services appropriations related to the General Plan Update, Housing Element, and Circulation Element.

Reserve for Fiscal Uncertainty	11,083,052
Assigned - Employee Salary Adjustment	0.00
Committed - Capital/Maintenance Projects	10,093,239
Committed - Pension Designation	878,799
Committed - Employee Recruitment and Retention	439,400
Committed - Sustainability/Community	662,696
Committed - General Plan Maintenance	577,696

FINANCIAL INFORMATION

Internal Controls: City management is responsible for establishing and maintaining an internal control structure designed to ensure government assets are protected from loss, theft, or misuse and to ensure adequate accounting data are compiled for the preparation of financial statements in conformity with generally accepted accounting principles. The internal control structure is designed to provide reasonable, but not absolute, assurance that these objectives are met. The concept of reasonable assurance recognizes (1) the cost of a control should not exceed the benefits likely to be derived, and (2) the valuation of costs and benefits requires estimates and judgments by management.

Budgetary Controls: The objective of budgetary controls is to ensure compliance with the Council-approved, annual appropriated budget. The City maintains budgetary controls at the fund level for administrative and operating expenditures. Project-length financial plans are adopted for the Capital Improvement Project Funds.

Long-Term Planning: In response to the long-term structural deficit of the City’s finances, a Resiliency Plan was developed in 2023-2024 to create a new direction for long-term planning. The plan calls for cutting costs, increasing local investment and smart growth. In fiscal year 2024-2025 the following actions were complete related to the resiliency plan:

- Reorganization of Departments
- Planning and Development of a citywide Parks, Landscape, and Lighting Assessment District (PLLAD) Measure was brought to the voters in fiscal year 2025-2026
- Offering city-owned sites for housing development through the “Surplus Land Act” process
- Amended zoning regulations
- Citizen initiative specific-purpose sales tax “Measure F” passed to support roads improvements
- Preparing for Transition of the Valero Benicia Refinery
 - Advocacy: working with state officials and the California Energy Commission to underscore the importance of the refinery to California’s economy
 - Collaboration: working with Signature Development Group to envision reuse plans for the site currently owned by Valero

- Transition: City Council spearheading task force groups to collect information and engage with stakeholders in the community
- Economic Analysis: commissioned an economic impact study of local revenue related to operation of the Valero Benicia Refinery

The City continues other long-term planning strategies including funding strategies for pension liabilities, full-cost recovery standards for user fees, and use of a five-year financial forecast.

Gann Limit vs. Appropriations Subject to Limit: Proposition 4, the "Gann Initiative," was passed by California voters in 1978, and is intended to limit government appropriations. The appropriations limit is calculated each year based upon fiscal year 1978-79 appropriations, which is modified by the composite consumer price index and population changes that have occurred in subsequent years. The City's appropriations limit and the estimated appropriations subject to the limit for fiscal year 2024-25 amounted to \$128.7 million and \$45.8 million respectively. City appropriations subject to the limit have consistently remained far below the appropriation limits and are not expected to deviate from this trend in the foreseeable future.

ACKNOWLEDGEMENTS

Employees of the City of Benicia throughout all departments and at every level have sharpened their focus on delivering essential services to the community through the lens of economic resiliency. While adjusting to continually changing circumstances and reductions in workforce and programs, City staff continued to be responsive to financial reporting needs and significantly contributed to the data presented in this report. Council's acknowledgement of staff efforts and continued prioritization of creating a resilient financial future are admirable and the City Manager's leadership through challenging circumstances is noteworthy.

Special acknowledgements are warranted to the entire Finance Department staff, the City's independent auditor CLA, and consultant Beauchaine Consulting Group for maintaining operational continuity and completing the annual comprehensive financial report during periods of staff turnover and vacancies in critical accounting roles.

Respectfully submitted,



Jeff Tschudi
Finance Director

**CITY OF BENICIA
MUNICIPAL OFFICERS**

CITY COUNCIL (Elected)

Steve Young, Mayor	2024-2028
Trevor Macenski, Vice Mayor	2024-2028
Kari Birdseye, Council Member	2022-2026
Lionel Largaespada, Council Member	2024-2028
Terry Scott, Council Member	2022-2026

OTHER (Elected)

Lisa Wolfe, City Clerk	2024-2028
Kenneth Paulk, City Treasurer	2024-2028

APPOINTED OFFICIALS

Mario Giuliani	City Manager
Benjamin Stock	City Attorney

DEPARTMENT HEADS

Assistant City Manager	Suzanne Thorsen
Deputy City Manager	Sarah Shawky
Police Chief	Mark Menesini
Finance Director	Jeff Tschudi
Fire Chief	Joshua Chadwick
Community Services Director	Ann Dunleavy
Public Works Director	Danielle Martinez

CITY OF BENICIA MISSION, VISION, AND VALUES

MISSION

Our mission is to provide sustainable city services to help our residents thrive. We strive to encourage economic opportunities, maintain sound infrastructure, and foster a safe and healthy community.

VISION

Benicia is a vibrant City that celebrates our rich culture, beautiful waterfront, welcoming community, and small-town feel.

VALUES

Accountable

We are honest, transparent, and committed to doing what's right.

Community-focused

We listen to our community members, adapt to changing circumstances, and communicate openly to meet our residents' needs today and in the future.

Inclusive

We foster an environment where all individuals feel welcome, respected, and empowered.

Teamwork

We work together to achieve common goals and collaborate to create the best possible services for our community.

Respectful

We act professionally, value others' perspectives, and create a supportive environment where all contributions are appreciated.

**CITY OF BENICIA
ORGANIZATION CHART**

CITIZENS OF BENICIA

CITY COUNCIL

Steve Young, Mayor

CITY CLERK

Lisa Wolfe

Trevor Macenski, Vice Mayor

Kari Birdseye

Lionel Largaespada

Terry Scott

CITY TREASURER

Kenneth Paulk

CITY MANAGER

Mario Giuliani

CITY ATTORNEY

Benjamin Stock

Assistant City Manager

Suzanne Thorsen

Deputy City Manager

Sarah Shawky

Police Chief

Mark Menesini

Fire Chief

Joshua Chadwick

Finance Director

Jeff Tschudi

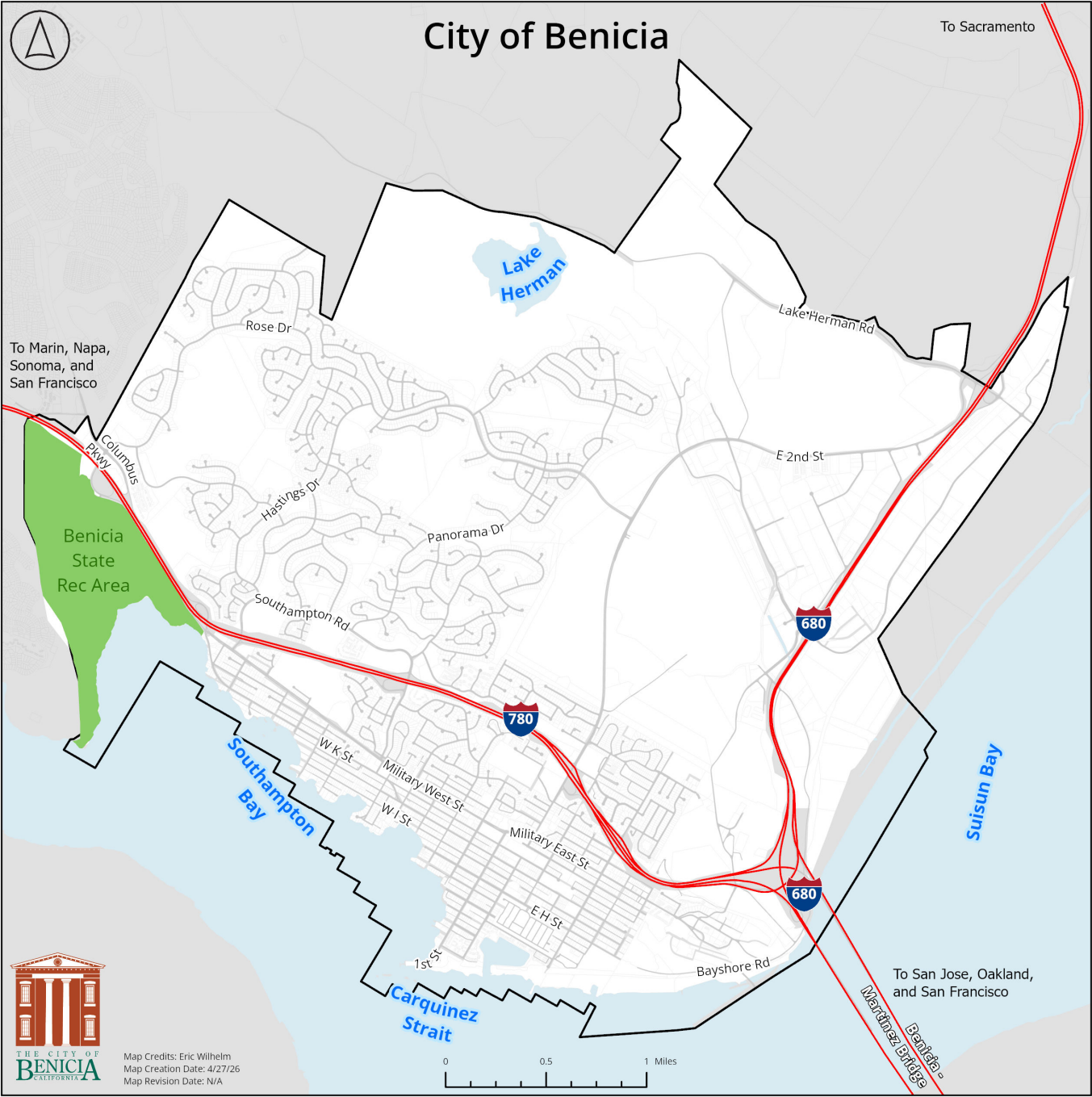
Community Services Director

Ann Dunleavy

Public Works Director

Danielle Martinez

CITY OF BENICIA
LOCATION MAP





INDEPENDENT AUDITORS' REPORT

Honorable Members of the City Council
City of Benicia
Benicia, California

Report on the Audit of the Financial Statements

Opinions

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Benicia (the City), as of and for the year ended June 30, 2025, and the related notes to the financial statements, which collectively comprise the City's basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Benicia, as of June 30, 2025, and the respective changes in financial position and, where applicable, cash flows thereof and the budgetary schedules for the general fund and the miscellaneous grants fund for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the City of Benicia and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Emphasis of Matter

Adoption of New Accounting Standard

As described in Note 19 to the financial statements, effective July 1, 2024, the City of Benicia adopted new accounting guidance for compensated absences. The guidance requires that liabilities for compensated absences be recognized for leave that has not been used and leave that has been used but has not yet been paid. Our opinions are not modified with respect to this matter.

Restatement of Fund Balance/Net Position

As described in Note 19 to the financial statements, a prior period adjustment was recorded for the correction of an error in prior year financial statements. Our opinions are not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis, schedule of changes in the net pension liability and related ratios, schedule of proportionate share of net pension liability and schedule of pension plan contributions, schedule of changes in the total OPEB liability and related ratios, and schedule of OPEB plan contributions be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements. The accompanying supplementary information such as the combining and individual fund financial statements and schedules are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with GAAS. In our opinion, the combining and individual fund financial statements and schedules are fairly stated, in all material respects, in relation to the basic financial statements as a whole.

Other Information

Management is responsible for the other information included in the annual report. The other information comprises the introductory and statistical sections but does not include the basic financial statements and our auditors' report thereon. Our opinions on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Honorable Members of the City Council
City of Benicia

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated April 20, 2026, on our consideration of the City's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control over financial reporting and compliance.

A handwritten signature in cursive script that reads "CliftonLarsonAllen LLP".

CliftonLarsonAllen LLP

Roseville, California
April 20, 2026

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

This management's discussion and analysis provides readers an overview and analysis of financial activities of the City of Benicia (City) for the fiscal year ended June 30, 2025. Please read this discussion and analysis in conjunction with the accompanying Transmittal Letter, the Basic Financial Statements, and the accompanying notes to the financial statements.

FINANCIAL HIGHLIGHTS

The City's total net position increased by 6.4 percent to \$231.8 million, bringing total Business Type Activities Net Position to \$127.3 million, and Governmental Activities to \$104.5 million at the close of the year.

The General Fund Group's fund balance totaled \$43.8 million, an increase of \$7.1 million over the prior year. The General Fund group is comprised of the General, Human Services Operations, Arts and Culture, Economic Development Activities, Cable, Library Development Impact Fee, Capital License, Payroll and Section 115 Trust funds. The General Fund group's balance is primarily identified as \$23.7 million committed (54.2 percent), \$8.2 million restricted (18.7 percent), \$1.0 million assigned (2.2 percent), and \$10.7 million unassigned (24.4 percent).

At the end of fiscal year 2024-25, the General Fund's fund balance totaled \$34.4 million, an increase of approximately \$5.7 million over the prior year. General Fund balance is primarily identified as \$11.1 million reserved (32.2 percent), \$12.7 million committed (36.8 percent), 3.1 million prior period adjustment (9.1 percent) and \$7.5 million unassigned (21.9 percent).

OVERVIEW OF THE FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to the City's basic financial statements, which consists of three parts: (1) Government-Wide Financial Statements, (2) Fund Financial Statements, and (3) Notes to the Basic Financial Statements. This report also contains other supplementary information in addition to the basic financial statements.

Government-Wide Financial Statements

The Government-Wide Financial Statements provide readers with a broad view of the City's finances, in a manner similar to a private-sector business, using the economic resources measurement focus and accrual basis of accounting. Under the accrual basis of accounting, revenues are recognized in the period in which they are earned, while expenses are recognized in the period in which liability is incurred.

The Statement of Net Position reports information about the City as a whole. This statement includes all assets (including infrastructure) as well as all liabilities (including long-term debt) of the City. Net position is the difference between assets and liabilities, which is one way to measure the City's financial health. Over time, increases or decreases in the City's net position are one indicator of whether its financial health is improving or deteriorating.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

In the Government-Wide statements, City activities are reported in two categories:

- **Governmental Activities** - Most of the City's basic services are reported in this category, including administration, community development, police, fire, parks and community services, public works, library services, and economic development. Property, sales and utility taxes, user fees, interest income, franchise fees, and state and federal grants are among the revenues that finance these activities.
- **Business-Type Activities** - The City's wastewater, water, and marina operations are reported in this category. The City charges a fee to customers to pay for the cost of certain services provided for these operations.

Fund Financial Statements

A fund is a group of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. Some funds are required to be established by State law or by bond covenants. However, the City establishes many other funds to help control and manage money for a particular purpose or to show that the City is meeting legal responsibilities for using certain taxes, grants, or other funds restricted in its use. Fund Financial Statements provide detailed information about the most significant funds, not the City as a whole.

All of the funds of the City can be divided into three categories:

- **Governmental Funds** - Most of the City's basic services are reported in governmental funds, using the current financial resources measurement focus and modified accrual accounting method, where revenues are recognized when measurable and available. Governmental funds are used to account for essentially the same functions reported as "governmental activities" in the Government-Wide Financial Statements. However, unlike the Government-Wide Financial Statements, Governmental Funds Financial Statements focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in determining the City's ability to finance its programs in the near future.

To better understand the City's long-term and short-term requirements, it is useful to compare the City's Governmental Fund Statements with the governmental activities in the Government-Wide Financial Statements. To facilitate this comparison, a reconciliation of these statements is provided for both the governmental fund balance sheet and the statement of revenues, expenditures, and changes in fund balance.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

- **Proprietary Funds** - When the City charges customers for services, either to outside customers or to other City departments, these services are generally reported in proprietary funds. Proprietary funds are reported in the same way in which all activities are reported in the Government-wide Financial Statements, using the accrual basis of accounting. Proprietary funds are comprised of Internal Service Funds and Enterprise funds. The City's enterprise funds are the same as the "business-type activities" reported in the government-wide financial statements, but provide more detail and additional information, such as cash flows for each enterprise fund. The City uses internal service funds to report activities that provide supplies and services to the City's other programs and activities, such as insurance, general services, building and equipment management, and the retirement stability funds. Internal Service Funds are reported with "governmental activities" in the Government-Wide Financial Statements since services provided predominantly benefit governmental rather than business-type functions.
- **Fiduciary Funds** - The City is the trustee, or fiduciary, for certain funds held on behalf of third parties. The City's fiduciary activities are reported in a separate Statements of Fiduciary Net Position. These activities are excluded from the City's Government-Wide Financial Statements because the City cannot use these assets to finance its operations. However, the City is responsible for ensuring that assets reported in these funds are used for their specified purposes.

Notes to the Financial Statements

The notes provide additional information essential to a full understanding of the data provided in both the Government-Wide Financial Statements and Fund Financial Statements. The notes to the financial statements can be found on pages 39-90 of this report.

Other Information

In addition to the basic financial statements and accompanying notes, this report also presents certain Required Supplementary Information concerning the City's progress in funding its obligation to provide pension benefits to its employees.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

GOVERNMENT-WIDE FINANCIAL ANALYSIS

The City's combined Net Position for the year ended June 30, 2025, is summarized below.

**Summary of Net Position
(in millions)**

	Governmental Activities		Business-Type Activities		Total	
	2025	2024	2025	2024	2025	2024
Current and Other Assets	\$ 92.1	\$ 84.4	\$ 65.0	\$ 61.5	\$ 157.0	\$ 145.9
Capital Assets	120.5	121.9	77.2	76.8	197.7	198.7
Total Assets	212.6	206.3	142.2	138.3	354.8	344.6
Deferred Outflows of Resources	23.6	31.6	1.4	1.7	25.0	33.3
Long-Term Liabilities Outstanding	112.2	113.4	11.7	12.3	123.9	125.7
Other Liabilities	11.6	15.4	3.0	6.0	14.6	21.4
Total Liabilities	123.8	128.8	14.7	18.3	138.5	147.1
Deferred Inflows of Resources	7.8	9.5	1.7	1.9	9.5	11.4
Net Position:						
Net Investments in Capital Assets	108.5	106.7	69.0	66.8	177.5	173.5
Restricted	22.9	21.4	-	-	22.9	21.4
Unrestricted	(26.8)	(28.6)	58.3	53.0	31.4	24.4
Total Net Position	<u>\$ 104.5</u>	<u>\$ 99.5</u>	<u>\$ 127.3</u>	<u>\$ 119.8</u>	<u>\$ 231.8</u>	<u>\$ 219.3</u>

* Refer to note 19: *Accounting and Reporting Changes* for changes to prior year balances.

The largest portion of the City's net position (76.6 percent) reflects its investment of \$177.5 million in capital assets. The City uses these capital assets to provide services to citizens and are not available for future spending.

Restricted net position totals \$22.9 million (9.5 percent) and represents total net position that is subject to external restrictions. The remaining balance of unrestricted net position totals \$31.4 million (13.9 percent) and may be used to meet the City's ongoing obligations to its citizens and creditors. Unrestricted net position for governmental activities reflects a negative amount due to the recognition and recording of the City's net pension and OPEB liabilities as required by GASB 68 and 75.

Statement of Activities and Changes in Net Position, as of June 30, 2025, is presented on the following page.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

Statement of Activities and Changes in Net Position
(in millions)

	Governmental Activities		Business-Type Activities		Total	
	2025	2024	2025	2024	2025	2024
REVENUES						
Program Revenues:						
Charges for Services	\$ 10.0	\$ 9.2	\$ 28.4	\$ 25.5	\$ 38.4	\$ 34.7
Operating Grants and Contributions	2.7	3.0	-	1.8	2.7	4.8
Capital Grants and Contributions	0.2	1.4	-	-	0.2	1.4
General Revenues:						
Property Taxes	23.4	22.2	-	-	23.4	22.2
Sales Taxes	19.6	15.6	-	-	19.6	15.6
Utility Users' Tax	6.8	6.3	-	-	6.8	6.3
Franchise Fees	2.9	2.8	-	-	2.9	2.8
Transient Occupancy Tax	0.6	0.4	-	-	0.6	0.4
Transfer Tax	0.1	0.1	-	-	0.1	0.1
Other Taxes	0.4	0.6	-	-	0.4	0.6
Investment Earnings	4.1	3.4	2.7	2.2	6.9	5.6
Miscellaneous	3.6	1.2	0.0	-	3.6	1.2
Total Revenues	74.5	66.2	31.1	29.5	105.6	95.7
EXPENSES						
Administration	9.2	8.2	-	-	9.2	8.2
Public Safety - Police	16.6	14.9	-	-	16.6	14.9
Public Safety - Fire	14.9	12.5	-	-	14.9	12.5
Parks and Community Services	5.2	7.1	-	-	5.2	7.1
Public Works	6.3	5.9	-	-	6.3	5.9
Community Development	4.4	3.4	-	-	4.4	3.4
Library	5.5	2.9	-	-	5.5	2.9
Economic Development	0.7	0.7	-	-	0.7	0.7
General Government	4.8	4.8	-	-	4.8	4.8
Interest on Long-Term Debt	0.6	0.5	-	-	0.6	0.5
Wastewater	-	-	10.5	11.0	10.5	11.0
Water	-	-	12.4	11.3	12.4	11.3
Benicia Marina	-	-	0.6	1.9	0.6	1.9
Total Expenses	68.2	60.9	23.5	24.2	91.8	85.1
INCREASE (DECREASE) IN NET POSITION BEFORE TRANSFERS	6.3	5.3	7.6	5.3	13.9	10.6
Transfers	(0.3)	(1.5)	0.3	1.5	-	-
CHANGE IN NET POSITION	6.0	3.8	7.9	6.8	13.9	10.6
Change in Accounting Principle*	(1.8)	-	(0.4)	-	(2.2)	-
Correction of an Error*	0.8	-	-	-	0.8	-
Net Position - Beginning of Year, as Restated	98.5	95.7	119.4	113.0	217.9	208.7
NET POSITION - END OF YEAR	<u>\$ 104.5</u>	<u>\$ 99.5</u>	<u>\$ 127.3</u>	<u>\$ 119.8</u>	<u>\$ 231.8</u>	<u>\$ 219.3</u>

* Refer to note 19: *Accounting and Reporting Changes* for changes to prior year balances.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

Governmental Activities

Total resources available during the year to finance governmental operations were \$172.7 million, consisting of Net Position on July 1, 2024, of \$98.5 million, program revenues of \$12.9 million and general revenues and transfers of \$61.6 million.

The cost of all governmental activities for fiscal year 2024-25 totaled \$68.2 million. The largest governmental programs include Public Safety - both Police and Fire (46 percent), followed by Administration (13 percent), Parks and Community Services (8 percent), and Public Works (9 percent). Functions presented in the MD&A and ACFR are not reflective of the City's organizational structure by department.

The amount that was paid by those who directly benefited from governmental programs was \$10.0 million, while operating and capital grants and contributions paid for \$2.9 million of total costs. The City paid for the remaining "public benefit" portion of governmental activities with taxes and investment earnings.

The following table shows the Net Cost of Governmental Activities, which totaled \$55.3 million.

	Expenses	Program Revenues	Net Revenue (Expense) of Activities
Administration	\$ 9,167,803	\$ 3,984,084	\$ (5,183,719)
Public Safety - Police	16,637,106	704,359	(15,932,747)
Public Safety - Fire	14,903,154	666,938	(14,236,216)
Parks and Community Services	5,193,597	11,780	(5,181,817)
Public Works	6,311,539	2,901,382	(3,410,157)
Community Development	4,417,379	1,881,083	(2,536,296)
Library	5,507,085	1,820,025	(3,687,060)
Economic Development	700,911	-	(700,911)
General Government	4,757,131	957,899	(3,799,232)
Interest on Long-Term Debt	645,441	-	(645,441)
Total	<u>\$ 68,241,146</u>	<u>\$ 12,927,550</u>	<u>\$ (55,313,596)</u>

Business-Type Activities

Total resources available during the year to finance Business-Type Activities were \$150.8 million consisting of Net Position on July 1, 2024, of \$119.4 million, program revenues of \$28.4 million, and general revenues and transfers of \$3.0 million.

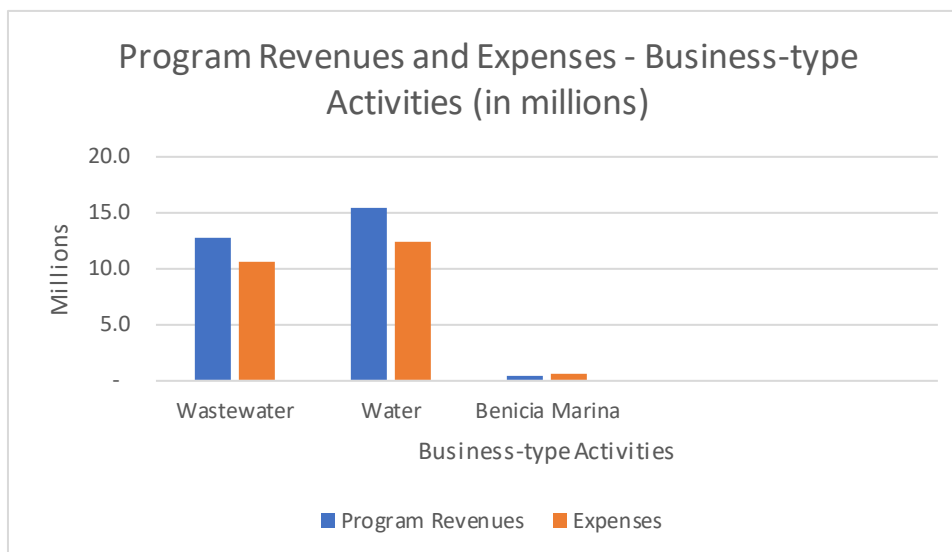
The cost of all Business-Type activities for fiscal year 2024-25 was \$23.5 million. As shown in the Statement of Activities and Changes in Net Position, the amounts paid by users of the systems totaled \$28.4 million.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

The following chart illustrates the comparison of operating revenues and expenses by business-type activity:

Net Cost of Business-Type Activities

	Expenses	Program Revenues	Net Revenue (Expense) of Activities
Wastewater	\$ 10,505,098	\$ 12,646,298	\$ 2,141,200
Water	12,371,076	15,426,458	3,055,382
Benicia Marina	637,202	314,720	(322,482)
Total	<u>\$ 23,513,376</u>	<u>\$ 28,387,476</u>	<u>\$ 4,874,100</u>



FINANCIAL ANALYSIS OF THE CITY'S FUNDS

In addition to the accrual-basis government-wide statements described above, the City maintains financial records at the fund level for compliance with finance-related legal requirements and for budgetary control. The Fund Financial Statements focus on individual funds of the City, reporting operations in more detail than the Government-Wide Financial Statements.

Governmental Funds

The City's governmental funds provide information on near-term inflows, outflows, and balances of spendable resources. The City's governmental funds reported a combined fund balance on June 30, 2025, of \$66.5 million, an increase of \$10.3 million in comparison with the prior year.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

As a result of the Fiscal Year 2010-2011 implementation of the Government Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, the focus and terminology used for reporting fund balance has substantially been altered. The following are the components of fund balance:

- 1) Nonspendable Fund Balance – portion of net resources that cannot be spent because of their form (will never convert to cash) or must be maintained intact pursuant to legal or contractual requirements.
- 2) Restricted Fund Balance – portion of fund balance that are subject to externally enforceable legal restrictions such as creditors, grantors, contributors, or other governments.
- 3) Committed Fund Balance – portion of fund balance whose use is constrained by limitations that the government imposes upon itself at its highest level of decision making (City Council) and remains binding unless removed in the same manner.
- 4) Assigned Fund Balance – portion of fund balance that reflects a government's intended use of resources.
- 5) Unassigned Fund Balance – net resources in excess of what can properly be classified in one of the four categories described above.

General Fund Group

The General Fund (within the General Fund Group) is the chief operating fund of the City. As a measure of the General Fund's ability to deliver City services during periods of operational budget deficits, the City has adopted a fund balance reserve policy that establishes a minimum fund balance equal to 20 percent of the general fund's annual appropriations excluding transfers to capital projects. The fiscal uncertainty reserve is to mitigate the effects of major economic uncertainties, local disasters, severe financial hardships resulting from unforeseen changes in revenues and/or expenditures and other unforeseen events.

At the end of fiscal year 2024-25 the total fund balance of the General Fund Group increased 7.1 million over the beginning fund balance, to \$43.8 million. The reserve policy adopted by the Council requires a Committed Fund Balance for the General Fund of \$11.9 million (20 percent of 2024-25 appropriations). The Commitment at the beginning of 2025-26 meets the requirement.

General Fund Group – Revenue and Expenditure Analysis

General Fund Group revenues for fiscal year 2024-25 were \$65.6 million, an increase of \$6.2 million (10 percent) compared to the prior fiscal year. The table on the following page compares General Fund Group revenues for the past two fiscal years followed by key information:

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

Comparison of General Fund Group Revenues

	Fiscal Year 2024-25	Fiscal Year 2023-24	Variance Over/(Under) Last Year	% of Increase (Decrease) Over Prior Year	% of Total
Property Taxes	\$ 23,424,933	\$ 22,164,925	\$ 1,260,008	6%	36%
Sales Taxes	18,693,802	15,614,725	3,079,077	20%	28%
Utility Users' Taxes	6,804,774	6,337,745	467,029	7%	10%
Franchise Tax	2,871,399	2,847,731	23,668	1%	4%
Transient Occupancy Taxes	633,936	442,470	191,466	43%	1%
Transfer Taxes	128,804	120,929	7,875	7%	0%
Other Taxes	361,085	558,992	(197,907)	-35%	1%
Licenses and Permits	1,910,958	1,898,754	12,204	1%	3%
Fines and Forfeitures	192,544	122,264	70,280	57%	0%
Use of Money and Property	2,900,178	2,577,186	322,992	13%	4%
Revenue from Other Agencies	9,000	73,898	(64,898)	-88%	0%
Current Service Charges	6,243,829	5,800,484	443,345	8%	10%
Community Donations	13,654	14,606	(952)	-7%	0%
Other	1,456,186	867,508	588,678	68%	2%
Total Revenues	<u>\$ 65,645,082</u>	<u>\$ 59,442,217</u>	<u>\$ 6,202,865</u>	<u>10%</u>	<u>100%</u>

The City's major funding sources are Property Tax, Sales Tax, Utility Users' Tax, and Current Services Charges.

- Property taxes increased \$1.3 million primarily due to an increase in the net taxable value of 3.0% of properties in Benicia.
- The sales tax increase of \$3.1 million, or 20 percent, is primarily due to the enactment of Measure B, a 0.75% local sales tax in the General Fund.
- Utility user taxes increased by \$0.5 million primarily due to gas and electricity user taxes. Use of Money and Property increased \$0.3 million due to favorable market conditions.
- Current Service Charges increased \$0.4 million primarily within the General, Fire, and Community Services.

Other funding sources with notable variances either in dollars or percentages are briefly discussed.

- Transient Occupancy Taxes are \$0.2 million, or 43 percent, higher due to the passage of Measure A and increased auditing of the TOT program.
- Other revenue was \$0.6 million, or 68 percent, higher in 2024-25 primarily due to the \$0.6 million increase in Reimbursable Overtime for the Fire Department.
- Revenue from Other Agencies was \$0.4 million, or 88 percent, lower due to fewer grant revenues.
- Other Taxes was \$0.2 million, or 35 percent, lower due to decreases in unitary tax and cannabis tax revenue.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

Comparison of General Fund Group Expenditures

General Fund group expenditures for fiscal year 2024-25 were \$54.8 million, an increase of \$2.1 million, or 4 percent compared to the prior fiscal year. The table below compares General Fund expenditures for the past two fiscal years, followed by key information:

	Fiscal Year 2024-25	Fiscal Year 2023-24	Variance Over/(Under) Last Year	% of Increase (Decrease) Over Prior Year	% of Total
Current:					
Administration	\$ 8,799,430	\$ 7,944,164	\$ 855,266	11%	16%
Public Safety - Police	13,336,098	13,057,803	278,295	2%	24%
Public Safety - Fire	12,500,937	11,567,908	933,029	8%	23%
Parks and Community Services	3,756,656	5,815,435	(2,058,779)	-35%	7%
Public Works	3,616,183	3,063,633	552,550	18%	7%
Community Development	2,930,055	2,525,158	404,897	16%	5%
Library	5,242,346	2,555,606	2,686,740	105%	10%
Economic Development	690,427	668,249	22,178	3%	1%
General	3,140,218	3,704,147	(563,929)	-15%	6%
Capital Outlay	-	880,379	(880,379)	-100%	0%
Debt Services:					
Principal	623,907	878,660	(254,753)	-29%	1%
Interest and Fiscal Charges	121,282	20,909	100,373	480%	0%
Total Expenditures	<u>\$ 54,757,539</u>	<u>\$ 52,682,051</u>	<u>\$ 2,075,488</u>	<u>4%</u>	<u>100%</u>

The functions presented in the ACFR are not aligned with department organizational structure in the City; it is possible that the presentation of the functions will be refined over time as the city continues to implement its resiliency plan. The hierarchy of each function presented above includes the following departmental divisions:

- Administration: City Clerk, City Council, City Manager, City Attorney, City Treasurer, Finance, Human Resources, Information Technology
- Public Safety: Police
- Public Safety: Fire
- Parks and Community Services: Parks and Building Maintenance
- Public Works: Public Works Administration, Engineering, Project Management, Streets, Storm Drain
- Community Development: Building Inspection and Planning
- Library: Library, Recreation, Arts and Culture
- Economic Development: Economic Development
- General: General Services

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

The following list summarizes functions with significant variances:

- General expenditures decreased by approximately \$0.6 million primarily due to decreases in leave allowance costs, also known as employee vacation payouts and other applicable payouts when employees leave the City and decrease in natural gas costs along with other operating costs.
- Fire expenditures increased \$0.9 million, or 8 percent over the prior year primarily due to increases in reimbursable overtime, unfunded accrued liability costs (UAL), and sworn salaries.
- Library expenditures increased \$2.7 million primarily due the addition of the Recreation divisions and the associated salary and benefit costs along with operating costs.
- Parks and Community Services expenditures decreased by approximately \$2.1 million due to the subtraction of Recreation to the Library function.
- Administrative Services expenditures increased by less than \$0.9 million primarily due to increases in personnel and operating expenditure increased spending in Finance and Information Technology. Both departments had increases in personnel and related expenditures as each filled vacant positions. In operating expenditures, Information Technology had an increase of \$0.3 million in professional services due to its agreement with Apex, a co-management information technology provider and FY 2024-25 marked the first full fiscal year worth of services with Apex.

Proprietary Funds

The City's proprietary funds provide the same type of information found in the Government-Wide Financial Statements, but in more detail.

Wastewater Fund – The City's wastewater utility fund collected \$12.6 million in user fees to maintain the system. The fund has \$40.1 million in capital assets net of accumulated depreciation and valued at historical cost. Net position increased by \$2.9 million. The increase in net position is due primarily to operating income of \$1.5 million and \$1.6 million in investment earnings.

Increases in fund balance for the Wastewater Fund are set aside for future capital project needs to maintain and replace vital infrastructure. The long-term focus of capital projects requires building up reserves that are set aside over a longer period. As such, revenues and expenses are not matched in each fiscal year.

Water Fund – The City's water utility fund collected \$15.4 million in user fees to sustain the system. The system has \$36.6 million in capital assets net of accumulated depreciation and valued at historical cost, financed with \$4.3 million of long-term debt. The net position increased insignificantly compared to the prior year. The water fund experienced a significant event during 2023-24. In 2023 the City's main raw water transmission line incurred storm-related damage to the point of being inoperable. A temporary line was installed at a cost of \$1.3 million. The City applied for FEMA funding and the project was approved. The City received reimbursement in FY 2025-26 for the federal and state portion. Permanent repairs and mitigation measures, in a joint project with the City of Fairfield, are anticipated to start in summer 2026. The City of Benicia's portion of the project costs is projected at \$3.6 million. The City has applied for Federal assistance for the permanent repairs and mitigation measures.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

Increases in fund balance for the Water Fund are set aside for future capital project needs to maintain and replace vital infrastructure. The long-term focus of capital projects requires building up reserves that are set aside over a longer period. As such, revenues and expenses are not matched in any single fiscal year.

Benicia Marina – The City's Marina collected \$0.3 million in user fees to support its operating and debt service costs. The Marina has \$1.8 million in capital assets net of accumulated depreciation and valued at historical cost, financed with \$0.7 million of long-term debt. The fund continues to receive support from the General Fund which totaled \$0.3 million in 2024-25.

GENERAL FUND BUDGETARY HIGHLIGHTS

The Approved Budget is adopted by the City Council prior to the July 1 start of the fiscal year (Original Budget). The City Council may approve budget amendments to add appropriations or change revenue estimates during the fiscal year, and following the Budget Control Policy process, a City Manager's administrative instruction, the City Council may approve Amendments to authorize additional appropriations for projects and services when related revenue and expenses are unknown at the time the budget was adopted and to align revenue and expense projections with changing economic conditions and organizational changes. Changes to the Original Budget are reflected in the Revised Budget and the Final Budget. The Budget Control Policy allows for net-zero budget changes within the same fund, referenced as a Budget Adjustment, and do not require City Council approval as appropriation levels are unchanged.

The original budget for General Fund revenues was \$56.2 million in 2024-25. Final budgeted revenues totaled \$62.6 million, an increase of \$6.4 million, in comparison to actual revenues received of \$65.0 million. Actual revenues exceeded final budgeted revenues by \$2.4 million in fiscal year 2024-25. The increased revenue is a result of higher performance in Gas & Electric Franchise Fees and Utility User Tax of \$0.7 million, Charges for Services exceeded forecasts by \$0.4 million, Other Revenues exceeded forecasts by \$0.2 million, and Investment Earnings exceeded forecasts by \$1.2 million offset by a shortfall in forecasted amount for Licenses and Permits by \$0.1 million.

The original budget for the General Fund expenditures was \$58.6 million. Final budgeted expenditures totaled \$65.1 million, an increase of \$6.5 million. Actual expenditures were \$60.4 million and were \$4.7 less than the final budgetary authority. Salary and Benefit expenditures were \$0.6 million less than budget due to delayed hiring for vacancies and staffing reorganizations. Professional and Technical services expenditures were \$2.3 million less than budget due to reduced use of temporary staffing, lower than anticipated legal expenses, and fewer needs for on-call professional services. Other Financing Uses expenditures were \$1.4 million less than budget due to unknown transfers needed during the biennial FY 2023-24 and FY 2024-25 budget development. Identification of known transfers has been completed as part of budget development for the FY 2025-26 and FY 2026-27 biennial budget. Expenditures were less than budget for Utilities by \$0.3 million, Supplies by \$0.1 million, and Other Expenses by \$0.2 million offset by an overage of \$0.2 million for Capital Outlays.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

CAPITAL ASSETS

The capital assets of the City are those assets, which are used in the performance of the City's functions including infrastructure assets. This investment in capital assets includes land and easements, infrastructure, buildings and improvements, equipment, and construction in progress. On June 30, 2025, net capital assets of governmental activities totaled \$120.5 million and the net capital assets of the business-type activities totaled \$77.2 million. Depreciation on Governmental Capital Assets is recognized in the Government-Wide Financial Statements, while depreciation on Proprietary Fund Capital Assets is recognized in both the Government-Wide and Fund Financial Statements.

The following table provides a breakdown of the City's capital assets on June 30, 2025:

**Capital Assets
(in millions)**

	Governmental Activities		Business-Type Activities		Total	
	2025	2024	2025	2024	2025	2024
Land	\$ 18.5	\$ 18.5	\$ 2.6	\$ 2.6	\$ 21.1	\$ 21.1
Buildings and Improvements	31.7	19.4	91.9	91.6	123.6	111.0
Machinery and Equipment	18.9	14.7	11.0	10.4	29.9	25.1
Infrastructure	169.4	180.4	98.1	90.0	267.5	270.4
Construction In Progress	1.9	3.1	0.5	5.5	2.4	8.6
Water Rights	0.6	0.6	5.0	5.0	5.6	5.6
Right-to-Use Equipment	0.9	0.9	-	-	0.9	0.9
Right-to-Use Structures	2.2	2.2	-	-	2.2	2.2
SBITAs	1.0	1.4	0.1	0.2	1.0	1.6
Total Capital Assets	245.0	241.2	209.2	205.3	454.3	446.5
Accumulated Depreciation and Amortization	(124.5)	(119.3)	(132.0)	(128.5)	(256.5)	(247.8)
Net Assets	\$ 120.5	\$ 121.9	\$ 77.2	\$ 76.7	\$ 197.7	\$ 198.7

Major capital assets added during fiscal year 2024-25 included a Type 6 Fire Truck, two hybrid vehicles for the Public Works Department, a hybrid vehicle for the Community Development department, a hybrid vehicle for the Public Works streets division, and a lift truck for the Public Works Department. Major business-type capital assets added included four vehicles and one dump truck in Public Works.

Construction projects in governmental activities included citywide guardrail project and City Hall Tenant Improvement project, among others. Construction projects for business-type activities included the Wastewater Treatment Plant Primary Treatment Rehabilitation, 12-inch Water Main Replacement on Military West, Wastewater Treatment Plan Primary Clarifiers Rehabilitation project, and miscellaneous Water Treatment Plant engineering services.

Additional information on the City's capital assets can be found in Note 6 on pages 58-60 of this report.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

DEBT ADMINISTRATION

The City uses a variety of indebtedness to finance various capital acquisitions. On June 30, 2025, the City's long-term debt outstanding was \$23.9 million. Of this amount, \$17.7 million was related to governmental activities and \$6.2 was related to business-type activities. The City's debt for governmental activities decreased \$1.2 million, and debt for business-type activities decreased \$1.5 million in comparison to the prior year.

The percentage of net bonded debt to taxable property valuation, and the amount of bonded debt per capita are useful indicators of the City's debt position. Per capita debt outstanding decreased from \$1,082 per capita in 2023-24 to \$979 in 2024-25.

The following is a summary of the City's long-term debt obligations at June 30, 2025:

**Long-term Debt
(in millions)**

	Governmental Activities		Business-Type Activities		Total	
	2025	2024	2025	2024	2025	2024
Pension Obligation Bonds	\$ 6.5	\$ 6.8	\$ -	\$ -	\$ 6.5	\$ 6.8
Certificates of Participation, Net of Unamortized Premium	8.9	9.5	-	-	8.9	9.5
Financed Purchases	0.0	0.1	4.1	4.6	4.1	4.7
Loans Payable	-	-	2.1	3.0	2.1	3.0
Lease Payable	2.3	2.5	0.1	0	2.3	2.6
	<u>2.3</u>	<u>2.5</u>	<u>0.1</u>	<u>0</u>	<u>2.3</u>	<u>2.6</u>
Total Indebtedness	<u>\$ 17.7</u>	<u>\$ 18.9</u>	<u>\$ 6.2</u>	<u>\$ 7.7</u>	<u>\$ 23.9</u>	<u>\$ 26.6</u>

Additional information on the City's long-term debt can be found in Note 7 on pages 61-66 of this report.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

ECONOMIC FACTORS AND NEXT YEAR'S BUDGET

Nationally, there is a continued period of economic uncertainty with warning signs of a potential economic slowdown. Though the Federal Reserve (Fed) reduced the federal funds rate target with three reductions in the second half of calendar year 2025 in an attempt to stimulate the economy and reduce costs of borrowing, inflation persists along with a weakening of the labor market at both state and national levels.

Consumers continue to spend but are targeting value pricing and convenience. There has been a recent uptick and increased investment in Artificial Intelligence (AI) technology and government spending. External factors of war and international conflict, fuel supply, tariffs, and other state police can impact spending as well and are contributing the continued uncertainty. As a result, most economic forecasts project a moderate, pessimistic economic growth FY 2025-26 followed by moderate optimism in FY 2026-27.

Locally, through the development of a Resiliency Plan in FY 2023-24, the City has engaged the community in education of the City's long-term financial sustainability, and has begun to identify community priorities for continued funding. The Resiliency Plan highlights the need for reducing City expenses, creating local investment to diversify and expand revenue, and encouraging smart, efficient development, including additional housing and businesses that meet local needs for employment, services and revenue. In FY 2024-25, the following actions related to the Resilience Plan were completed:

- Reorganization of Departments
- Planning and Development of a citywide Parks, Landscape, and Lighting Assessment District (PLLAD)
Measure was brought to the voters in fiscal year 2025-2026
- Offering city-owned sites for housing development through the "Surplus Land Act" process
- Amended zoning regulations
- Citizen initiative specific-purpose sales tax "Measure F" passed to support roads improvements
- Preparing for Transition of the Valero Benicia Refinery
 - Advocacy: working with state officials and the California Energy Commission to underscore the importance of the refinery to California's economy
 - Collaboration: working with Signature Development Group to envision reuse plans for the site currently owned by Valero
 - Transition: City Council spearheading task force groups to collect information and engage with stakeholders in the community
 - Economic Analysis: commissioned an economic impact study of local revenue related to operation of the Valero Benicia Refinery

The City prepares a biennial budget based on long-term financial viability which allows decision-makers to understand the on-going impact of current policy decisions. Through the budget, the Council sets the direction of the City, including allocating resources and establishing priorities.

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

The next fiscal year budget, FY 2025-26 was adopted by Council in June 2025 and was adopted with a balanced budget in the General Fund for the first time in recent history. The FY 2025-26 budget has since been amended by Council to reflect limited increases in operating budgets and for carryover amendments of \$0.3 million from unspent budget in FY 2024-25 for ongoing contractual obligations and capital projects where sufficient appropriations were not included in the adopted budget. The FY 2025-26 budget restored previously suspended contributions towards internal service funds, deferring capital projects, and deleting an operational budget contingency. The vacancy factor, which was introduced with the FY 2023-24 budget continued to be part of the Budget Development Policy adopted by council for the FY 2025-26 and FY 2026-27 budgets to manage salary and benefit expenses within the adopted budget by reviewing vacancies and hiring authorizations to ensure forecasted savings are realized and to align staffing needs with operational changes.

Measure F, put on the November 2024 ballot by a citizens' initiative, is a specific-purpose tax for repairing, maintaining, and improving Benicia's streets, roads, potholes and related sidewalks and storm drains was passed by the Benicia voters and became operative in April 2025. Measure F is collected in a separate fund. Measure A and Measure B on the March 2024 ballot both passed and became operative on October 1, 2024. Measure A increased the transient occupancy tax (TOT) rate from 9% to 13% and total TOT. Measure B increased the general sales tax by three-fourths of one cent. These measures have been included in the adopted biennial budget.

In April 2025, the Valero Energy Corporation notified the City of Benicia and submitted a notice to the California Energy Commission of its intent to idle, restructure, or cease refining operations at the Benicia Refinery by the end April 2026. The direct and indirect economic activity related to operating the Benicia Refinery have a significant impact on the revenues for the City of Benicia. The City engaged HdL ECONsolutions to conduct an Economic Impact Study and report on the projected revenue loss associated with a closure of the Valero Benicia Refinery to the City Council in October 2025. The report projects a revenue loss of approximately \$10.7 million annually, comprised of a General Fund revenue loss of \$7.7 million and a Water Fund loss of \$3.0 million. The refinery, along with the direct and indirect economic activities of supporting businesses, have been a significant contributor to the City's revenue. A variety of revenue types are generated from this activity, including Utility Users Tax, Water sales, Property Tax, Sales and Use Tax and Transaction Tax (TUT), Transient Occupancy Tax, and Business License Tax. The revenue loss is not anticipated to occur all at once, and staff are monitoring impacts to revenue sources and will return to council to present budget reductions. While this revenue loss is significant, the potential vacant site creates opportunity for reuse planning efforts. Should the site be redeveloped, revenue streams from future activity will not be seen in the short- to medium-term.

In addition, the Bay Area Air District announced a grant opportunity which in part uses funds from air quality violations, including those associated with the Valero Refining Company, which was fined in October 2024 by the Air District in conjunction with the California Air Resources Board. According to the Air District's Call for Projects for Benicia and surrounding communities, approximately \$60 million is available for the initial funding round. Benicia is eligible to apply and intends on applying, aligned with Council feedback received at the February 2026 City Council Goal Setting Workshop. Prior to the Valero announcement, staff were initiating Priority Based Budgeting as a tool to address the City's structural deficit. The City intends on continuing that work after the grant application is submitted.

Despite the aforementioned revenue losses, funding required employer contributions and accrued liability related to pension costs continues to exist and has a significant budget impact. For the fiscal year ended June 30, 2025, the City's Miscellaneous plan was approximately 71.4 percent funded, and

**CITY OF BENICIA
MANAGEMENT'S DISCUSSION AND ANALYSIS
YEAR ENDED JUNE 30, 2025**

the City's Safety plan was approximately 67.8 percent funded based on a measurement date of June 30, 2024. The market value of assets for the City's Miscellaneous plan increased \$8.5 million, an increase of 8% over the prior year. The market value of assets for the City's Safety plan increased \$9.3 million, an increase of 8.7% over the prior year. The accrued liability for the Miscellaneous plan increased \$9.7 million, an increase of 6.4% 5.2% over the prior year. The investment decisions that affect the City's pension plans are governed by the CalPERS Board of Administration. The City will continue to address pension costs and funding strategies to ensure fiscal sustainability.

The following table presents the employer normal cost and unfunded liability increases for fiscal year 2024-25 compared to the prior fiscal year. The annual unfunded liability payments are discounted because of a prepayment arrangement with CalPERS.

	Employer Normal Cost Percent		Annual Unfunded Liability Payment	
	FY 2023-24	FY 2024-25	FY 2023-24	FY 2024-25
Miscellaneous Plan	11.24 %	11.03 %	\$ 2,815,844	\$ 3,434,228
Safety Plan	82.88	83.70	3,461,287	4,082,651
Total			<u>\$ 6,277,131</u>	<u>\$ 7,516,879</u>

CONTACTING THE CITY'S FINANCIAL MANAGEMENT

This financial report is designed to provide our citizens, taxpayers, customers, investors, and creditors with a general overview of the City's finances and to show the City's accountability for the money it receives. If you have questions about this report or need any additional financial information, contact the Finance Department at 250 East "L" Street, Benicia, CA 94510, phone (707) 746-4225.

BASIC FINANCIAL STATEMENTS

**CITY OF BENICIA
STATEMENT OF NET POSITION
JUNE 30, 2025**

	Governmental Activities	Business-Type Activities	Total
ASSETS			
Cash and Investments Available for City Operations	\$ 74,926,402	\$ 54,650,963	\$ 129,577,365
Restricted Cash and Investments	46,928	-	46,928
Restricted Cash with Fiscal Agents	8,266,769	-	8,266,769
Accounts Receivable, net of allowance for uncollectibles	5,666,848	5,197,536	10,864,384
Due from other Governments	-	1,250,074	1,250,074
Interest Receivable, net of allowance for uncollectibles	1,114	4,498	5,612
Materials, Parts, and Supplies	68,975	254,790	323,765
Internal Balances	(2,266,665)	2,266,665	-
Prepaid Items	127,296	-	127,296
Lease Receivable, net of allowance for uncollectibles	5,220,526	1,354,375	6,574,901
Loans Receivable, net of allowance for uncollectibles	2,917	-	2,917
Capital Assets:			
Nondepreciable/amortizable	20,470,568	3,071,084	23,541,652
Depreciable/amortizable	100,047,604	74,122,296	174,169,900
Total Assets	212,579,282	142,172,281	354,751,563
DEFERRED OUTFLOWS OF RESOURCES			
Related to Pension	23,027,064	1,297,818	24,324,882
Related to OPEB	563,883	143,092	706,975
Total Deferred Outflows of Resources	23,590,947	1,440,910	25,031,857
LIABILITIES			
Current Liabilities:			
Accounts payable	1,802,923	714,932	2,517,855
Salaries and benefits payable	961,994	185,936	1,147,930
Accrued expenses	168,069	130,251	298,320
Deposits from others	339,480	4,333	343,813
Accrued interest	71,406	48,453	119,859
Unearned revenue	4,225,883	-	4,225,883
Bonds and notes payable	1,045,000	1,544,802	2,589,802
Lease payable	271,829	42,938	314,767
SBITA Payable	397,608	52,238	449,846
Compensated absences	1,192,762	289,858	1,482,620
Total OPEB liability	300,000	-	300,000
Self-insurance payable	817,461	-	817,461
Total Current Liabilities	11,594,415	3,013,741	14,608,156
Long-Term Liabilities:			
Net pension liability	86,157,905	5,576,283	91,734,188
Total OPEB liability	2,934,154	820,704	3,754,858
Bonds and notes payable	14,379,496	4,692,031	19,071,527
Lease payable	1,993,446	20,719	2,014,165
SBITA Payable	534,496	3,238	537,734
Compensated absences	3,105,925	547,814	3,653,739
Self-insurance payable	3,113,528	-	3,113,528
Total Long-Term Liabilities	112,218,950	11,660,789	123,879,739
Total Liabilities	123,813,365	14,674,530	138,487,895
DEFERRED INFLOWS OF RESOURCES			
Related to Pension	1,535,221	-	1,535,221
Related to OPEB	1,411,715	358,239	1,769,954
Related to Leases	4,877,898	1,305,300	6,183,198
Total Deferred Inflows of Resources	7,824,834	1,663,539	9,488,373
NET POSITION			
Net Investments in Capital Assets	108,458,444	69,021,858	177,480,302
Restricted for:			
Capital projects	10,159,191	-	10,159,191
Special revenue projects	8,008,905	-	8,008,905
Landscaping and lighting	1,069,848	-	1,069,848
Library	66,492	-	66,492
Open Space	546,213	-	546,213
Community Service	672,240	-	672,240
Streets and roads	863,826	-	863,826
Debt service	1,508,285	-	1,508,285
Total Restricted Net Position	22,895,000	-	22,895,000
Unrestricted	(26,821,414)	58,253,264	31,431,850
Total Net Position	\$ 104,532,030	\$ 127,275,122	\$ 231,807,152

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
STATEMENT OF ACTIVITIES
YEAR ENDED JUNE 30, 2025**

Functions/Programs	Expenses	Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions	Net (Expense) Revenue and Changes in Net Position		
					Governmental Activities	Business-Type Activities	Total
GOVERNMENTAL ACTIVITIES							
Administration	\$ 9,167,803	\$ 3,603,885	\$ 380,199	\$ -	\$ (5,183,719)	\$ -	\$ (5,183,719)
Public Safety - Police	16,637,106	501,905	202,454	-	(15,932,747)	-	(15,932,747)
Public Safety - Fire	14,903,154	666,938	-	-	(14,236,216)	-	(14,236,216)
Parks and Community Services	5,193,597	11,780	-	-	(5,181,817)	-	(5,181,817)
Public Works	6,311,539	993,357	1,714,081	193,944	(3,410,157)	-	(3,410,157)
Community Development	4,417,379	1,579,277	301,806	-	(2,536,296)	-	(2,536,296)
Library	5,507,085	1,759,651	60,374	-	(3,687,060)	-	(3,687,060)
Economic Development	700,911	-	-	-	(700,911)	-	(700,911)
General Government	4,757,131	878,067	79,832	-	(3,799,232)	-	(3,799,232)
Interest on Long-Term Debt	645,441	-	-	-	(645,441)	-	(645,441)
Total Governmental Activities	68,241,146	9,994,860	2,738,746	193,944	(55,313,596)	-	(55,313,596)
BUSINESS-TYPE ACTIVITIES							
Wastewater	10,505,098	12,646,298	-	-	-	2,141,200	2,141,200
Water	12,371,076	15,426,458	-	-	-	3,055,382	3,055,382
Benicia Marina	637,202	314,720	-	-	-	(322,482)	(322,482)
Total Business-Type Activities	23,513,376	28,387,476	-	-	-	4,874,100	4,874,100
Total	\$ 91,754,522	\$ 38,382,336	\$ 2,738,746	\$ 193,944	(55,313,596)	4,874,100	(50,439,496)
GENERAL REVENUES AND TRANSFERS							
Taxes:							
Property Taxes					23,424,933	-	23,424,933
Sales Taxes					19,554,291	-	19,554,291
Utility Users' Tax					6,804,774	-	6,804,774
Franchise Tax					2,871,399	-	2,871,399
Transient Occupancy Tax					633,936	-	633,936
Transfer Tax					128,804	12,425	141,229
Other Taxes					361,085	-	361,085
Sale of Capital Assets					51,972	35,575	87,547
Investment Earnings					4,138,379	2,724,142	6,862,521
Miscellaneous					3,648,251	1,329	3,649,580
Transfers, Net					(268,881)	268,881	-
Total General Revenues and Transfers					61,348,943	3,042,352	64,391,295
CHANGE IN NET POSITION					6,035,347	7,916,452	13,951,799
Net Position - Beginning of Year, as Originally Reported					99,505,178	119,766,280	219,271,458
Change in Accounting Principle					(1,855,323)	(407,610)	(2,262,933)
Correction of an Error					846,828	-	846,828
Net Position - Beginning of Year, as Restated					98,496,683	119,358,670	217,855,353
NET POSITION - END OF YEAR					\$ 104,532,030	\$ 127,275,122	\$ 231,807,152

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
FUND FINANCIAL STATEMENTS
JUNE 30, 2025**

The funds described below were determined to be Major Funds by the City in fiscal 2025. Individual nonmajor funds may be found in the Supplemental section.

General Fund

The General Fund is used for all of the general revenues of the City not specifically levied or collected for other City funds and the related expenditures.

Capital Projects

Accounts for the capital improvements and rehabilitation of the project. Sources of revenue include investment earnings and proceeds from bonds.

Miscellaneous Grants

Accounts for miscellaneous grants, including Kyle Hyland Foundation for Teen Support, recycling, and ABAG workplace safety grants.

**CITY OF BENICIA
GOVERNMENTAL FUNDS
BALANCE SHEET
JUNE 30, 2025**

	General	Capital Projects Fund	Miscellaneous Grants Fund	Other Governmental Funds	Total Governmental Funds
ASSETS					
Cash and Investments Available for City Operations	\$ 32,258,811	\$ 10,436,899	\$ 4,374,350	\$ 12,536,560	\$ 59,606,620
Restricted Cash with Fiscal Agents	8,180,933	-	-	84,390	8,265,323
Accounts Receivable, Net Allowance for Uncollectibles	4,651,572	30,833	139,577	837,442	5,659,424
Interest Receivable, Net Allowance for Uncollectibles	1,114	-	-	-	1,114
Due from Other Funds	427,291	-	-	-	427,291
Lease Receivable	5,220,526	-	-	-	5,220,526
Loans Receivable, Net Allowance for Uncollectibles	2,917	-	-	-	2,917
Prepaid Expenses	127,296	-	-	-	127,296
Total Assets	<u>\$ 50,870,460</u>	<u>\$ 10,467,732</u>	<u>\$ 4,513,927</u>	<u>\$ 13,458,392</u>	<u>\$ 79,310,511</u>
LIABILITIES, DEFERRED INFLOWS OF RESOURCES, AND FUND BALANCES					
LIABILITIES					
Accounts Payable	\$ 1,140,121	\$ 101,548	\$ 76,643	\$ 383,597	\$ 1,701,909
Accrued Salaries and Benefits	937,835	-	-	12,446	950,281
Accrued Expenses	144,232	-	-	8,466	152,698
Customer Deposits	6,760	-	-	332,720	339,480
Unearned Revenue	-	-	4,131,106	94,777	4,225,883
Due to Other Funds	-	-	-	427,291	427,291
Total Liabilities	<u>2,228,948</u>	<u>101,548</u>	<u>4,207,749</u>	<u>1,259,297</u>	<u>7,797,542</u>
DEFERRED INFLOWS OF RESOURCES					
Deferred Amounts Related to Leases	4,877,898	-	-	-	4,877,898
Unavailable Revenue	-	-	139,152	-	139,152
	<u>4,877,898</u>	<u>-</u>	<u>139,152</u>	<u>-</u>	<u>5,017,050</u>
FUND BALANCES					
Nonspendable	173,445	-	-	-	173,445
Restricted	8,188,781	10,020,039	167,026	12,653,070	31,028,916
Committed	23,734,882	346,145	-	-	24,081,027
Assigned	977,000	-	-	-	977,000
Unassigned	10,689,506	-	-	(453,975)	10,235,531
Total Fund Balances	<u>43,763,614</u>	<u>10,366,184</u>	<u>167,026</u>	<u>12,199,095</u>	<u>66,495,919</u>
Total Liabilities, Deferred Inflows of Resources, and Fund Balances	<u>\$ 50,870,460</u>	<u>\$ 10,467,732</u>	<u>\$ 4,513,927</u>	<u>\$ 13,458,392</u>	<u>\$ 79,310,511</u>

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
RECONCILIATION OF THE
GOVERNMENTAL FUNDS – BALANCE SHEET
WITH THE STATEMENT OF NET POSITION
JUNE 30, 2025**

RECONCILIATION TO THE STATEMENT OF NET POSITION

Total Fund Balances - Governmental Funds	\$ 66,495,919
Amounts reported for governmental activities in the statement of net position are different from those reported in the governmental funds.	
Capital Assets - Capital assets used in governmental activities are not current assets or financial resources and, therefore, are not reported in the governmental funds.	106,594,425
Internal service funds are used by management to charge the costs of activities to individual funds. These assets and liabilities are included of internal service funds are included in governmental activities in the statement of net position.	16,329,156
Adjustments for internal service funds are necessary to "close" those funds by charging additional amounts to participating business-type activities to completely cover the internal service funds' costs for the year.	(2,266,665)
Deferred outflows of resources related to pension and OPEB are not reported in the governmental funds.	23,590,947
Deferred inflows of resources related to pension and OPEB are not reported in the governmental funds.	(2,946,936)
Long-Term Assets and Liabilities - The assets and liabilities below are not due and payable in the current period and, therefore, are not reported in the funds:	
Long-Term Debt	(6,486,886)
Lease Payable	(2,265,275)
Unavailable Revenue	139,152
Subscription-based Payable	(838,941)
Compensated Absences	(4,257,795)
Net Pension Liability	(86,157,905)
Total OPEB Liability	(3,234,154)
Interest Payable	(24,023)
General Liability Claims Payable	(138,989)
Net Position of Governmental Activities as Reported on the Statement of Net Position	<u>\$ 104,532,030</u>

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
GOVERNMENTAL FUNDS
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
YEAR ENDED JUNE 30, 2025**

	General	Capital Projects Fund	Miscellaneous Grants Fund	Other Governmental Funds	Total Governmental Funds
REVENUES					
Taxes	\$ 52,918,733	\$ -	\$ -	\$ 860,489	\$ 53,779,222
Licenses and Permits	1,910,958	-	-	-	1,910,958
Fines and Forfeitures	192,544	-	-	-	192,544
Use of Money and Property	2,900,178	481,763	243,791	696,147	4,321,879
Revenue from Other Agencies	9,000	193,944	673,005	1,837,757	2,713,706
Current Service Charges	6,243,829	-	11,951	757,511	7,013,291
Community Donations	13,654	-	-	66,178	79,832
Other	1,456,186	2,127,600	-	64,465	3,648,251
Total Revenues	65,645,082	2,803,307	928,747	4,282,547	73,659,683
EXPENDITURES					
Current:					
Administration	8,799,430	-	-	4,374	8,803,804
Public Safety - Police	13,336,098	-	-	339,330	13,675,428
Public Safety - Fire	12,500,937	-	-	-	12,500,937
Parks and Community Services	3,756,656	-	-	757,581	4,514,237
Public Works	3,616,183	-	-	-	3,616,183
Community Development	2,930,055	-	605,578	708,835	4,244,468
Library	5,242,346	-	-	185,231	5,427,577
Economic Development	690,427	-	-	-	690,427
General	3,140,218	-	510,351	-	3,650,569
Capital Outlay	-	2,767,167	-	246,495	3,013,662
Debt Service:					
Principal	623,907	-	-	455,000	1,078,907
Interest and Fiscal Charges	121,282	-	-	254,218	375,500
Total Expenditures	54,757,539	2,767,167	1,115,929	2,951,064	61,591,699
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	10,887,543	36,140	(187,182)	1,331,483	12,067,984
OTHER FINANCING SOURCES (USES)					
Transfers In	242,018	1,030,000	-	1,370,308	2,642,326
Transfers Out	(4,905,545)	(84,857)	(105,400)	(133,593)	(5,229,395)
Proceeds from Sale of Property	19,148	-	-	-	19,148
Total Other Financing Sources (Uses)	(4,644,379)	945,143	(105,400)	1,236,715	(2,567,921)
NET CHANGE IN FUND BALANCES	6,243,164	981,283	(292,582)	2,568,198	9,500,063
Fund Balances - Beginning of Year, as Originally Reported	36,673,622	9,384,901	459,608	9,630,897	56,149,028
Correction of an Error	846,828	-	-	-	846,828
Fund Balances - Beginning of Year, Restated	37,520,450	9,384,901	459,608	9,630,897	56,995,856
FUND BALANCES - END OF YEAR	<u>\$ 43,763,614</u>	<u>\$ 10,366,184</u>	<u>\$ 167,026</u>	<u>\$ 12,199,095</u>	<u>\$ 66,495,919</u>

See accompanying Notes to Basic Financial Statements.

CITY OF BENICIA RECONCILIATION OF THE NET CHANGE IN FUND BALANCES – GOVERNMENTAL FUNDS WITH THE STATEMENT OF ACTIVITIES YEAR ENDED JUNE 30, 2025

RECONCILIATION TO THE STATEMENT OF ACTIVITIES

The schedule below reconciles the net changes in fund balances reported on the governmental funds statement of revenues, expenditures, and changes in fund balance, which measures only changes in current assets and current liabilities on the modified accrual basis, with the change in net position of governmental activities reported in the statement of activities, which is prepared on the full accrual basis.

Net Change in Fund Balances - Governmental Funds	\$	9,500,063

Amounts reported for governmental activities in the statement of activities are different because of the following:

Capital Assets - Governmental funds report capital outlays as expenditures.

However, in the statement of activities, the cost of those assets is capitalized and allocated over their estimated useful lives and reported as depreciation expense.

Capital Outlay Expenditures Added Back to Fund Balance		2,032,162
Net effect of various miscellaneous transactions involving capital assets, including retirements and adjustments		1,368,547
Depreciation Expense Deducted from Fund Balance (Depreciation Expense is net of Internal Service Fund depreciation of \$830,434, which has already been allocated to service funds)		(4,024,839)

Leases are captured in the governmental activities as lease assets with a related lease liability and then amortized over the life of the lease including imputed interest expense. There were the following differences between the two statements.

Debt service payments		266,873
Lease amortization		(241,982)

SBITAs are captured in the governmental activities as SBITA assets with a related SBITA liability and then amortized over the life of the SBITA including imputed interest expense. There were the following differences between the two statements.

Debt service payments		357,034
SBITA amortization		(382,209)
Various SBITA Adjustments, including net issuances of SBITA agreements		29,755

Some revenues reported in the Statement of Activities will not be collected for several months after the City's year end and do not provide current financial resources and therefore, are not reported as revenues in the governmental funds.

Change in Unavailable Revenue		139,152

Long-Term Debt Proceeds and Payments - Debt Proceeds provide current financial resources to governmental funds, but issuing debt increases long-term liabilities in the statement of net position. Repayment of bond principal is an expenditure in the governmental funds, but in the statement of net position the repayment reduces long-term liabilities.

Change in capital appreciation bond accretion		(182,286)
Repayment of Debt Principal Added Back to Fund Balance		565,565

Accrual of Noncurrent Items - The amounts below included in the statement of activities do not provide or (require) the use of current financial resources and, therefore, are not reported as revenue or expenditures in governmental funds (net change):

Compensated Absences		37,948
Net Pension Liability and Related Deferred Inflows and Outflows of Resources		(4,784,783)
Total OPEB Liability		(127,421)

Allocation of Internal Service Fund Activity - Internal Service Funds are used by management to charge the costs of certain activities, such as equipment acquisition, maintenance, and insurance to individual funds. The portion of the net revenue (expense) of these Internal Service Funds arising out of their transactions with governmental funds is reported with governmental activities because they service those activities.

		2,160,771

The net (revenue) expense allocable to business-type activities related to internal service funds		(679,003)

Change in Net Position of Governmental Activities as Reported on the Statement of Activities	\$	<u>6,035,347</u>

See accompanying Notes to Basic Financial Statements.

CITY OF BENICIA
STATEMENT OF REVENUE, EXPENDITURES, AND CHANGES IN FUND
BALANCE – BUDGET TO ACTUAL – GENERAL FUND
FOR THE YEAR ENDED JUNE 30, 2025

	Budgeted Amounts		Actual	Variance with Final Budget Positive (Negative)
	Original	Final	Amounts	
REVENUES				
Taxes:				
Property	\$ 21,968,678	\$ 22,933,678	\$ 23,424,933	\$ 491,255
Sales	16,271,800	19,041,833	18,693,802	(348,031)
Franchise Fees	2,185,000	2,385,000	2,871,399	486,399
Utility Users Tax	5,872,707	6,552,988	6,804,774	251,786
Transient Occupancy Taxes	475,000	662,500	633,936	(28,564)
Transfer Taxes	150,000	150,000	128,804	(21,196)
Other Taxes	780,800	1,079,800	361,085	(718,715)
Licenses and Permits	1,830,415	1,850,415	1,910,958	60,543
Fines and Forfeitures	182,500	138,500	192,544	54,044
Use of Money and Property	953,500	966,500	2,900,178	1,933,678
Revenue from Other Agencies	-	-	9,000	9,000
Current Service Charges	5,006,004	6,056,304	6,243,829	187,525
Community Donations	20,000	20,000	13,654	(6,346)
Other Revenue	780,800	1,079,800	1,456,186	376,386
Total Revenues	56,477,204	62,917,318	65,645,082	2,727,764
EXPENDITURES				
Current:				
Administration	9,547,573	10,314,678	8,799,430	1,515,248
Public Safety - Police	13,239,053	14,038,482	13,336,098	702,384
Public Safety - Fire	12,128,023	12,700,711	12,500,937	199,774
Parks and Community Services	6,436,033	3,710,881	3,756,656	(45,775)
Public Works	3,727,246	4,178,170	3,616,183	561,987
Community Development	2,790,230	3,723,357	2,930,055	793,302
Library	2,218,522	5,218,683	5,242,346	(23,663)
Economic Development	802,761	782,842	690,427	92,415
General	3,696,030	3,869,320	3,140,218	729,102
Debt Service:				
Principal	320,977	312,202	623,907	(311,705)
Interest and Fiscal Charges	3,746	12,521	121,282	(108,761)
Total Expenditures	54,910,194	58,861,847	54,757,539	4,104,308
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	1,567,010	4,055,471	10,887,543	6,832,072
OTHER FINANCING SOURCES (USES)				
Transfers In	300,411	1,416,311	242,018	(1,174,293)
Transfers Out	(4,031,189)	(6,652,831)	(4,905,545)	1,747,286
Proceeds from Sale of Property	-	-	19,148	19,148
Total Other Financing Sources (Uses)	(3,730,778)	(5,236,520)	(4,644,379)	592,141
NET CHANGE IN FUND BALANCE	<u>\$ (2,163,768)</u>	<u>\$ (1,181,049)</u>	6,243,164	<u>\$ 7,424,213</u>
Fund Balance - Beginning of Year			37,520,450	
FUND BALANCE - END OF YEAR			<u>\$ 43,763,614</u>	

See accompanying Notes to Basic Financial Statements.

CITY OF BENICIA
STATEMENT OF REVENUE, EXPENDITURES, AND CHANGES IN FUND
BALANCE – BUDGET TO ACTUAL – MISCELLANEOUS GRANTS FUND
FOR THE YEAR ENDED JUNE 30, 2025

	Budget	Actual	Variance Positive (Negative)
REVENUES			
Use of Money and Property	\$ -	\$ 243,791	\$ 243,791
Intergovernmental Revenues	515,430	673,005	157,575
Current Service Charges	2,000	11,951	9,951
Total Revenues	517,430	928,747	411,317
EXPENDITURES			
Current:			
Community Development	-	605,578	(605,578)
General	5,985,241	510,351	5,474,890
Total Expenditures	5,985,241	1,115,929	4,869,312
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(5,467,811)	(187,182)	5,280,629
OTHER FINANCING SOURCES (USES)			
Transfers Out	-	(105,400)	(105,400)
Total Other Financing Sources (Uses)	-	(105,400)	(105,400)
NET CHANGE IN FUND BALANCES	<u><u>\$ (5,467,811)</u></u>	<u><u>(292,582)</u></u>	<u><u>\$ 5,175,229</u></u>
Fund Balances - Beginning of Year		459,608	
FUND BALANCES - END OF YEAR		<u><u>\$ 167,026</u></u>	

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
MAJOR PROPRIETARY FUNDS
JUNE 30, 2025**

Proprietary funds account for City operations financed and operated in a manner similar to a private business enterprise. The intent of the City is that the cost of providing goods and services be financed primarily through user charges.

The City reported all of its Enterprise Funds as major funds in fiscal 2025.

Wastewater

Accounts for the transport, treatment, and disposal of wastewater for residents and businesses located within the City.

Water

Accounts for the purchase, treatment, and distribution of water to residents and businesses located within the City.

Benicia Marina

Accounts for the operation and management of the City Marina.

**CITY OF BENICIA
PROPRIETARY FUNDS
STATEMENT OF NET POSITION
YEAR ENDED JUNE 30, 2025**

	Business-Type Activities - Enterprise Funds				Governmental Activities
	Wastewater	Water	Benicia Marina	Totals	Internal Service Funds
ASSETS					
Current Assets:					
Cash and Investments:					
Available for City Operations	\$ 31,941,961	\$ 20,178,137	\$ 2,530,865	\$ 54,650,963	\$ 15,321,228
Restricted Cash and Investments Held by Fiscal Agents	-	-	-	-	46,928
Accounts Receivable, Net of Allowance for Uncollectibles	2,354,095	2,807,821	35,620	5,197,536	7,424
Interest Receivable, Net of Allowance for Uncollectibles	-	1,250,074	-	1,250,074	-
Materials, Parts, and Supplies	14,661	240,129	4,498	254,790	68,975
Total Current Assets	34,310,717	24,476,161	2,570,983	61,357,861	15,444,555
Noncurrent Assets:					
Lease Receivable, Net of Allowance for Uncollectibles	-	-	1,354,375	1,354,375	-
Property, Plant, and Equipment:					
Land and Improvements	669,710	1,850,389	63,983	2,584,082	556,909
Buildings and Improvements	51,309,915	32,556,274	7,933,206	91,799,395	13,108,305
Machinery and Equipment	7,116,924	3,903,766	-	11,020,690	6,815,998
Infrastructure and Water Rights	48,602,003	49,538,665	-	98,140,668	12,643,186
Construction In Progress	402,132	84,870	-	487,002	-
Intangibles	-	5,000,000	-	5,000,000	-
Right-to-Use Lease Assets	146,715	39,546	-	186,261	-
Right-to-Use Assets Subscription	10,286	193,053	-	203,339	95,788
Less: Accumulated Depreciation and Amortization	(68,109,333)	(56,604,404)	(7,514,320)	(132,228,057)	(19,296,439)
Total Noncurrent Assets	40,148,352	36,562,159	1,837,244	78,547,755	13,923,747
Total Assets	74,459,069	61,038,320	4,408,227	139,905,616	29,368,302
DEFERRED OUTFLOWS OF RESOURCES					
Related to Pension	641,488	656,330	-	1,297,818	-
Related to OPEB	71,334	71,758	-	143,092	-
Total Deferred Outflows of Resources	712,822	728,088	-	1,440,910	-
LIABILITIES					
Current Liabilities:					
Accounts Payable	387,099	288,487	39,346	714,932	101,014
Accrued Salaries and Benefits	91,233	94,703	-	185,936	11,713
Accrued Expenses	28,492	101,759	-	130,251	-
Customer and Performance Deposits	-	4,333	-	4,333	15,371
Interest Payable	319	22,051	26,083	48,453	47,383
Workers' Compensation Claims	-	-	-	-	738,000
Compensated Absences	152,257	137,601	-	289,858	14,150
Notes Payable Current Portion	-	710,255	-	710,255	-
Current Portion of Long-Term Liabilities	-	551,702	282,845	834,547	570,000
Lease Payable	33,270	9,668	-	42,938	-
SBITA Liability	3,452	52,024	-	55,476	30,306
Total Liabilities	696,122	1,972,583	348,274	3,016,979	1,527,937
Long-Term Liabilities:					
Compensated Absences	287,756	260,058	-	547,814	26,742
Workers' Compensation Claims	-	-	-	-	3,054,000
Net Pension Liability	2,756,256	2,820,027	-	5,576,283	-
Total OPEB Liability	409,135	411,569	-	820,704	-
Notes Payable	-	727,253	347,631	1,074,884	-
Non-Current Portion of Long-Term Liabilities	-	3,617,147	-	3,617,147	-
Certificates of Participation	-	-	-	-	8,367,610
Lease Payable	16,872	3,847	-	20,719	-
SBITA Liability	-	-	-	-	62,857
Total Long-Term Liabilities	3,470,019	7,839,901	347,631	11,657,551	11,511,209
Total Liabilities	4,166,141	9,812,484	695,905	14,674,530	13,039,146
DEFERRED INFLOWS OF RESOURCES					
Related to OPEB	178,588	179,651	-	358,239	-
Related to Leases	-	-	1,305,300	1,305,300	-
Total Deferred Inflows of Resources	178,588	179,651	1,305,300	1,663,539	-
NET POSITION					
Net Investments in Capital Assets	39,150,647	30,018,818	(147,607)	69,021,858	4,894,420
Unrestricted	31,676,515	21,755,455	2,554,629	55,986,599	11,434,736
Total Net Position	\$ 70,827,162	\$ 51,774,273	\$ 2,407,022	\$ 125,008,457	\$ 16,329,156
Some amounts reported for <i>business-type activities</i> in the Statement of Net Position are different because certain internal service fund assets and liabilities are included with business-type activities.				2,266,665	
Net Position of Business-Type Activities				\$ 127,275,122	

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
PROPRIETARY FUNDS
STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN
FUND NET POSITION
YEAR ENDED JUNE 30, 2025**

	Business-Type Activities - Enterprise Funds				Governmental Activities Internal Service Funds
	Wastewater	Water	Benicia Marina	Totals	
OPERATING REVENUES					
Charges for Services	\$ 12,644,902	\$ 15,672,489	\$ -	\$ 28,317,391	\$ 2,287,748
Rentals	-	-	314,720	314,720	-
Refunds and Rebates	2,725	(246,031)	-	(243,306)	794,104
Total Operating Revenues	12,647,627	15,426,458	314,720	28,388,805	3,081,852
OPERATING EXPENSES					
Wages and Benefits	4,131,934	4,245,973	-	8,377,907	480,015
Materials and Supplies	4,931,772	6,337,320	429,691	11,698,783	1,279,467
Purchased Water	-	591,484	-	591,484	-
Depreciation	2,092,088	877,153	149,656	3,118,897	802,476
Amortization	28,087	87,894	-	115,981	31,067
Claims and Insurance	-	-	-	-	1,103,694
Total Expenses	11,183,881	12,139,824	579,347	23,903,052	3,696,719
OPERATING INCOME (LOSS)	1,463,746	3,286,634	(264,627)	4,485,753	(614,867)
NONOPERATING REVENUES (EXPENSES)					
Investment Earnings	1,568,730	990,854	164,558	2,724,142	694,567
Interest Expense	(23,921)	(207,551)	(57,855)	(289,327)	(269,941)
Sale of Capital Assets	5,150	30,425	-	35,575	32,824
Transfer Taxes	-	-	12,425	12,425	-
Total Nonoperating Revenues (Expenses)	1,549,959	813,728	119,128	2,482,815	457,450
INCOME (LOSS) BEFORE CAPITAL CONTRIBUTIONS AND TRANSFERS	3,013,705	4,100,362	(145,499)	6,968,568	(157,417)
Transfers In	76,401	-	312,000	388,401	2,326,000
Transfers Out	(59,184)	(60,336)	-	(119,520)	(7,812)
CHANGE IN NET POSITION	3,030,922	4,040,026	166,501	7,237,449	2,160,771
Net Position - Beginning of Year, as Originally Reported	67,965,718	47,972,379	2,240,521	118,178,618	14,189,060
Change in Accounting Principle	(169,478)	(238,132)	-	(407,610)	(20,675)
Net Position - Beginning of Year, Restated	67,796,240	47,734,247	2,240,521	117,771,008	14,168,385
NET POSITION - END OF YEAR	<u>\$ 70,827,162</u>	<u>\$ 51,774,273</u>	<u>\$ 2,407,022</u>	<u>\$ 125,008,457</u>	<u>\$ 16,329,156</u>

Some amounts reported for business-type activities in the Statement of Activities are different because the portion of the net income of certain internal service funds are reported with the business-type activities which those funds serviced.

	\$ 679,003
Change in Net Position of Business-Type Activities	<u>\$ 7,916,452</u>

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
PROPRIETARY FUNDS
STATEMENT OF CASH FLOWS
YEAR ENDED JUNE 30, 2025**

	Business-Type Activities - Enterprise Funds				Governmental Activities Internal Service Funds
	Wastewater	Water	Benicia Marina	Totals	
CASH FLOWS FROM OPERATING ACTIVITIES					
Receipts from Customers	\$ 12,878,432	\$ 15,195,214	\$ 413,883	\$ 28,487,529	\$ 3,733,198
Payments to Suppliers	(6,405,569)	(8,551,422)	(412,113)	(15,369,104)	(2,941,774)
Payments to Employees	(3,640,794)	(3,922,364)	-	(7,563,158)	(480,600)
Net Cash Provided (Used) by Operating Activities	2,832,069	2,721,428	1,770	5,555,267	310,824
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES					
Taxes and Assessments	-	-	12,425	12,425	-
Grants	-	253,360	-	253,360	-
Transfers In	76,401	-	312,000	388,401	2,326,000
Transfers Out	(59,184)	(60,336)	-	(119,520)	(7,812)
Net Cash Used by Noncapital Financing Activities	17,217	193,024	324,425	534,666	2,318,188
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES					
Acquisition of Capital Assets	(2,976,321)	(683,969)	-	(3,660,290)	(793,336)
Sale of Capital Assets	5,150	30,425	-	35,575	109,003
Principal Payments on Capital Debt	(34,285)	(1,325,938)	(270,665)	(1,630,888)	(563,484)
Interest Paid on Capital Debt	(23,921)	(207,551)	(57,855)	(289,327)	(269,941)
Net Cash Used by Capital and Related Financing Activities	(3,029,377)	(2,187,033)	(328,520)	(5,544,930)	(1,517,758)
CASH FLOWS FROM INVESTING ACTIVITIES					
Interest and Dividends	1,568,730	990,855	162,458	2,722,043	696,659
INCREASE (DECREASE) IN CASH AND INVESTMENTS	1,388,639	1,718,274	160,133	3,267,046	1,807,913
Cash and Investments - Beginning of Year	30,553,322	18,459,863	2,370,732	51,383,917	13,560,243
CASH AND INVESTMENTS - END OF YEAR	<u>\$ 31,941,961</u>	<u>\$ 20,178,137</u>	<u>\$ 2,530,865</u>	<u>\$ 54,650,963</u>	<u>\$ 15,368,156</u>
RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES					
Operating Income (Loss)	\$ 1,463,746	\$ 3,286,634	\$ (264,627)	\$ 4,485,753	\$ (614,867)
Adjustments to Reconcile Operating Income to Net Cash Used by Operating Activities:					
Depreciation and Amortization	2,120,175	965,047	149,656	3,234,878	833,543
(Increase) Decrease in:					
Accounts Receivable	230,805	(226,155)	107,418	112,068	(7,424)
Lease Receivable	-	-	147,701	147,701	-
Deposits from Others	-	(5,089)	-	(5,089)	-
Inventory	15,667	(14,933)	-	734	(25,653)
Pension Adjustments - Deferred Outflows	94,132	101,177	-	195,309	-
OPEB Adjustments - Deferred Outflows	13,184	13,260	-	26,444	-
Increase (Decrease) in:					
Accounts Payable	(1,482,926)	(1,699,568)	28,743	(3,153,751)	(539,844)
Accrued Salaries and Benefits	3,942	(3,719)	-	223	(2,196)
Accrued Expenses	(6,551)	93,304	-	86,753	14,308
Accrued Interest	13	(1,421)	(11,165)	(12,573)	-
Compensated Absences Payable	56,058	(102,273)	-	(46,215)	652,957
Net Pension Liability	353,431	345,710	-	699,141	-
Net OPEB Liability	(13,697)	(13,770)	-	(27,467)	-
Pension Adjustments - Deferred Inflows	(32,542)	(33,511)	-	(66,053)	-
OPEB Adjustments - Deferred Inflows	16,632	16,735	-	33,367	-
Lease Receivable - Deferred Inflows	-	-	(155,956)	(155,956)	-
Net Cash Provided (Used) by Operating Activities:	<u>\$ 2,832,069</u>	<u>\$ 2,721,428</u>	<u>\$ 1,770</u>	<u>\$ 5,555,267</u>	<u>\$ 310,824</u>

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
FIDUCIARY FUNDS
JUNE 30, 2025**

Trust funds are used to account for assets held by the City as a trustee agent for individuals, private organizations, and other governments. The financial activities of these funds are excluded from the Entity-Wide financial statements but are presented in separate Fiduciary Fund financial statements. The City also maintains a Trust Fund for the Affordable Housing Private Purpose Trust.

Custodial funds are used to account for assets held by the City as an agent for individuals, private organizations, and other governments. The financial activities of these funds are excluded from the Entity-Wide financial statements but are presented in separate Fiduciary Fund financial statements. The City maintains Custodial Funds for its assessment districts.

**CITY OF BENICIA
FIDUCIARY FUNDS
STATEMENT OF FIDUCIARY NET POSITION
JUNE 30, 2025**

	Affordable Housing Private Purpose Trust Fund	Custodial Funds
ASSETS		
Restricted Cash and Investments	\$ 24,650	\$ 1,533,893
Total Assets	<u>24,650</u>	<u>1,533,893</u>
LIABILITIES		
Deposit from Others	-	1,276,140
Total Liabilities	<u>-</u>	<u>1,276,140</u>
NET POSITION		
Restricted for:		
Held in Trust for Others	24,650	-
Restricted for Other Governments	<u>-</u>	<u>257,753</u>
Total Net Position	<u><u>\$ 24,650</u></u>	<u><u>\$ 257,753</u></u>

See accompanying Notes to Basic Financial Statements.

**CITY OF BENICIA
FIDUCIARY FUNDS
STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
YEAR ENDED JUNE 30, 2025**

	Affordable Housing Private Purpose Trust Fund	Custodial Funds
ADDITIONS		
Fees, Fines and Charges	\$ -	\$ 682,009
Net Investment Earnings	1,231	66,928
Total Additions	<u>1,231</u>	<u>748,937</u>
DEDUCTIONS		
Debt Service	<u>-</u>	<u>685,318</u>
Total Deductions	<u>-</u>	<u>685,318</u>
CHANGE IN NET POSITION	1,231	63,619
Net Position - Beginning of Year	<u>23,419</u>	<u>194,134</u>
NET POSITION - END OF YEAR	<u><u>\$ 24,650</u></u>	<u><u>\$ 257,753</u></u>

See accompanying Notes to Basic Financial Statements.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Background

The City of Benicia was incorporated as a general law city on April 24, 1851. The City operates under the Council Manager form of government and provides the following services: public safety (police and fire), highways and streets, storm drains, water, wastewater, culture recreation, public improvements, planning and zoning, and general administration.

The financial statements and accounting policies of the City conform with generally accepted accounting principles applicable to governments. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. Significant accounting policies are summarized below:

Reporting Entity

The accompanying financial statements present the activities of the City of Benicia (the primary government).

Joint Ventures

In addition, the City participates in joint ventures with the Solano Water Authority and the Solano Transportation Authority. The Solano Water Authority was formed to coordinate water procurement and use among the Solano cities and county. The Solano Transportation Authority was established to develop regional strategies and to cooperatively address Solano City transportation issues. See Note 15 for more detailed information regarding these relationships.

Other Related Organization

The City Council is responsible for other related organization board appointments to the Benicia Housing Authority. See Note 18 for more detailed information regarding this relationship.

B. Basis of Presentation

The City's Basic Financial Statements are prepared in conformity with accounting principles generally accepted in the United States of America. The Government Accounting Standards Board is the acknowledged standard setting body for establishing accounting and financial reporting standards followed by governmental entities in the United States of America.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

B. Basis of Presentation (Continued)

These Standards require that the financial statements described below be presented.

Government-Wide Statements

The statement of net position and the statement of activities display information about the primary government (the City). These statements include the financial activities of the overall City government, except for fiduciary activities. These statements distinguish between the governmental and business-type activities of the City. Governmental activities generally are financed through taxes, intergovernmental revenues, and other nonexchange transactions. Business-type activities are financed in whole or in part by fees charged to external parties.

The statement of activities presents a comparison between direct expenses and program revenues for each segment of the business-type activities of the City and for each function of the City's governmental activities. Direct expenses are those that are specifically associated with a program or function and, therefore, are clearly identifiable to a particular function. Program revenues include (a) charges paid by the recipients of goods or services offered by the programs, (b) grants and contributions that are restricted to meeting the operational needs of a particular program, and (c) fees, grants and contributions that are restricted to financing the acquisition or construction of capital assets. Revenues that are not classified as program revenues, including all taxes, are presented as general revenues.

Fund Financial Statements

The fund financial statements provide information about the City's funds, including fiduciary funds. Separate statements for each fund category — governmental, proprietary, and fiduciary — are presented. The emphasis of fund financial statements is on major individual governmental and enterprise funds, each of the governmental and proprietary which is displayed in a separate column. All remaining governmental and enterprise funds are aggregated and reported as nonmajor funds.

Proprietary fund operating revenues, such as charges for services, result from exchange transactions associated with the principal activity of the fund. Exchange transactions are those in which each party receives and gives up essentially equal values. Nonoperating revenues, such as subsidies and investment earnings, result from nonexchange transactions or ancillary activities.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

C. Major Funds

Major funds are defined as funds that have either assets, liabilities, revenues, or expenditures/expenses equal to 10% of their fund-type total and 5% of the grand total. The General Fund is always a major fund. The City may also select other funds it believes should be presented as major funds.

The City reported the following major governmental funds in the accompanying financial statements:

General Fund

The General Fund is used for all the general revenues of the City not specifically levied or collected for other City funds and the related expenditures. The general fund accounts for all financial resources of a governmental unit, which are not accounted for in another fund.

Capital Projects Fund

Accounts for the capital improvements and rehabilitation of the project. Sources of revenue include investment earnings and proceeds from bonds.

Miscellaneous Grants

Accounts for miscellaneous grants, including Kyle Hyland Foundation for Teen Support, recycling, and ABAG workplace safety grants.

The City reported the following enterprise funds as major funds in the accompanying financial statements:

Wastewater Fund

Accounts for the transport, treatment, and disposal of wastewater for residents and businesses located within the City.

Water Fund

Accounts for the distribution of water to residents and businesses located within the City.

Benicia Marina Fund

Accounts for activities of the City's Marina.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

C. Major Funds (Continued)

The City also reports the following fund types:

Internal Service Funds

These funds account for insurance, general services, building and equipment management, and energy; all of which are provided to other departments on a cost-reimbursement basis.

Fiduciary Funds

The City maintains two types of Fiduciary Funds – Trust Funds and Custodial Funds. The Private Purpose Trust Fund accounts for activities of an individual private trust fund for the benefit of the Affordable Housing. Custodial Funds are used to account for assets held by the City as an agent for the Fleetside Industrial Assessment District and McAllister Assessment District. The financial activities of these funds are excluded from the government-wide financial statement but are presented in separate Fiduciary Fund financial statements.

D. Basis of Accounting

The government-wide and proprietary financial statements are reported using the *economic resources measurement focus* and the full *accrual basis* of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of when the related cash flows take place.

Governmental funds are reported using the *current financial resources measurement focus* and the *modified accrual* basis of accounting. Under this method, revenues are recognized when *measurable and available*. The City considers all revenues reported in the governmental funds to be available if the revenues are collected within 60 days after year-end. Expenditures are recorded when the related fund liability is incurred, except for principal and interest on general long-term debt, claims and judgments, and compensated absences, which are recognized as expenditures to the extent they have matured. Governmental capital asset acquisitions are reported as *expenditures* in governmental funds. Proceeds of governmental long-term debt and acquisitions under finance purchase leases are reported as *other financing sources*.

Those revenues susceptible to accrual at both the City-wide and Fund level are property, sales and franchise taxes, current service charges, and interest revenue. Fines, and licenses and permits, are not susceptible to accrual because they are not measurable until received in cash.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

D. Basis of Accounting (Continued)

Nonexchange transactions, in which the City gives or receives value without directly receiving or giving equal value in exchange, include taxes, grants, entitlements, and donations. On the accrual basis, revenue from taxes is recognized in the fiscal year for which the taxes are levied or assessed. Revenues from grants, entitlements, and donations are recognized in the fiscal year in which all eligibility requirements have been satisfied.

Grant revenues are recognized in the fiscal year in which all eligibility requirements are met. Under the terms of grant agreements, the City may fund certain programs with a combination of cost-reimbursement grants, categorical block grants, and general revenues. Thus, both restricted and unrestricted fund balance may be available to finance program expenditures. The City's policy is to first apply restricted grant resources to such programs, followed by general revenues if necessary.

Certain indirect costs are included in program expenses reported for individual functions and activities.

As a general rule, the effect of interfund activity has been eliminated from the government-wide financial statements. Exceptions to this general rule are payments-in-lieu of taxes and other charges between the government's business-type activities and various other functions of the government. Elimination of these charges would distort the direct costs and program revenues reported for the various functions concerned.

Amounts reported as *program revenues* include 1) charges to customers or applicants for goods, services, or privileges provided, 2) operating grants and contributions, and 3) capital grants and contributions, including special assessments. Internally dedicated resources are reported as *general revenues* rather than as program revenues. Likewise, general revenues include all taxes.

Proprietary funds distinguish *operating* revenues and expenses from *nonoperating* items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the City's enterprise funds, and internal service funds are charges to customers for sales and services. The City also recognizes as operating revenue the portion of tap fees intended to recover the cost of connecting new customers to the system. Operating expenses for enterprise funds and internal service funds include the cost of sales and services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

E. Property Tax Revenues

Solano County assesses properties and bills, collects, and distributes property taxes to the City. The City remits the entire amount levied and handles all delinquencies, retaining interest, and penalties. Secured and unsecured property taxes are levied on January 1.

Secured property tax is due in two installments, on November 1 and March 1, and becomes a lien on those dates. It becomes delinquent on December 10 and April 10, respectively. Unsecured property tax is due on July 1 and becomes delinquent on August 31.

The term "unsecured" refers to taxes on personal property other than real estate, land, and buildings. These taxes are secured by liens on the property being taxed. Property tax revenues are recognized by the City in the fiscal year they are assessed, provided they become available as defined above.

F. Revenue Recognition for Water and Sewer

Revenues are recognized based on cycle billings rendered to customers. Revenues for services provided but not billed at the end of a fiscal period are accrued at the end of the fiscal year.

G. Compensated Absences

The liability for compensated absences reported in the government-wide and proprietary fund statements consists of leave that has not been used that is attributable to services already rendered, accumulates and is more likely than not to be used for time off or otherwise paid in cash or settled through noncash means. The liability also includes amounts for leave that has been used for time off but has not yet been paid in cash or settled through noncash means and certain other types of leave.

H. Materials, Parts and Supplies, and Prepaid Items

Materials, parts and supplies, and prepaid items are held for consumption and are valued at cost using the first-in first-out (FIFO) basis. The cost is recorded as an expenditure at the time individual items are consumed.

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both government-wide and fund financial statements.

I. Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

J. Deferred Outflows/Inflows of Resources

In addition to assets, the statement of net position reports a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense) until then.

In addition to liabilities, the statement of net position or balance sheet reports a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position or fund balance that applies to a future period(s) and so will not be recognized as an inflow or resources (revenue) until that time.

K. Capital Assets

Contributed capital assets are valued at their estimated acquisition value on the date contributed. Donated capital assets, donated works of art and similar items, and capital assets received in a service concession arrangement are reported at acquisition value. All other capital assets are valued at historical cost or estimated historical cost if actual historical cost is not available. The City defines capital assets as assets with an initial individual cost of more than \$25,000 and an estimated useful life in excess of one year with the exception of federally funded acquisitions, which are \$5,000 or more. Land and infrastructure are capitalized at an initial individual cost of more than \$150,000.

Depreciation is provided using the straight-line method which means the cost of the asset is divided by its expected useful life in years and the result is charged to expense each year until the asset is fully depreciated. The City has assigned the useful lives listed below to capital assets:

Buildings and Improvements	15 to 40 Years
Machinery and Equipment	5 to 30 Years
Computer Software	5 Years
Treatment Plant, Water, and Sewer Pipes	40 to 60 Years
Other Infrastructure	10 to 100 Years
Water Rights	25 Years

Major outlays for capital assets and improvements are capitalized as projects are constructed.

L. Leases

Lessee

The City is a lessee for noncancellable leases of equipment, and structures. The City recognizes a lease liability and a right-to-use lease asset (lease asset) in the applicable governmental activities in the statement of net position. The City recognizes lease liabilities with an initial, individual value of \$5,000 or more.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

L. Leases (Continued)

Lessee (Continued)

At the commencement of a lease, the City initially measures the lease liability at the present value of payments expected to be made during the lease term. Subsequently, the lease liability is reduced by the principal portion of lease payments made. The lease asset is initially measured as the initial amount of the lease liability, adjusted for lease payments made at or before the lease commencement date, plus certain initial direct costs. Subsequently, the lease asset is amortized on a straight-line basis over the shorter of the lease term or its useful life.

Key estimates and judgments related to leases include how the City determines:

- (1) The discount rate it uses to discount the expected lease payments to present value,
- (2) Lease term, and (3) lease payments.
 - The City uses the interest rate charged by the lessor as the discount rate. When the interest rate charged by the lessor is not provided, the City generally uses its estimated incremental borrowing rate as the discount rate for leases.
 - The lease term includes the noncancellable period of the lease.
 - Lease payments included in the measurement of the lease liability are composed of fixed payments and the purchase option price that the City is reasonably certain to exercise.

The City monitors changes in circumstances that would require a remeasurement of its lease and will remeasure the lease asset and liability if certain changes occur that are expected to significantly affect the amount of the lease liability.

Lease assets are reported with other capital assets and lease liabilities are reported with long-term debt on the statement of net position.

Lessor

The City is a lessor for noncancellable leases of building and land. The City recognizes a lease receivable in the applicable governmental activities in the statement of net position. The City recognizes lease liabilities with an initial, individual value of \$5,000 or more.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

M. Subscription-Based Information Technology Arrangements

Key estimates and judgments related to SBITAs include how the City determines:

- (1) The discount rate it uses to discount the expected lease payments to present value,
- (2) Lease term, and (3) lease payments.
 - The City uses the interest rate charged by the lessor as the discount rate. When the interest rate charged by the lessor is not provided, the City generally uses its estimated incremental borrowing rate as the discount rate for leases.
 - The lease term includes the noncancellable period of the lease.
 - Lease payments included in the measurement of the lease liability are composed of fixed payments and the purchase option price that the City is reasonably certain to exercise.

The City monitors changes in circumstances that would require a remeasurement of its lease and will remeasure the SBITA asset and liability if certain changes occur that are expected to significantly affect the amount of the SBITA liability.

SBITA assets are reported with other capital assets and SBITA liabilities are reported with long-term debt on the statement of net position.

N. Adoption of New Accounting Standard

In June 2022, the Governmental Accounting Standards Board (GASB) issued GASB Statement No. 101, *Compensated Absences*. This standard requires that liabilities for compensated absences be recognized for leave that has not been used and leave that has been used but has not yet been paid. The City adopted the requirements of the guidance effective July 1, 2024, and has applied the provision of this standard to the beginning of the period of adoption.

O. Fair Value Measurements

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The City categorizes its fair value measurements within the fair value hierarchy established by generally accepted accounting principles. The fair value hierarchy categorizes the inputs to valuation techniques used to measure fair value into three levels based on the extent to which inputs used in measuring fair value are observable in the market.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

O. Fair Value Measurements (Continued)

Level 1 – inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2 – inputs are inputs – other than quoted prices included within Level 1 – that are observable for an asset or liability, either directly or indirectly.

Level 3 – inputs are unobservable inputs for an asset or liability.

If the fair value of an asset or liability is measured using inputs from more than one level of the fair value hierarchy, the measurement is considered to be based on the lowest priority level input that is significant to the entire measurement.

NOTE 2 BUDGET AND BUDGETARY ACCOUNTING

A. Budgeting Procedures

The City follows these procedures in establishing the budgetary data reflected in the financial statements:

1. The City Manager submits to the City Council a proposed bi-annual operating budget for the next two fiscal years commencing the following July 1. The operating budget includes proposed expenditures and the means of financing them.
2. Public hearings are conducted to obtain taxpayer comments.
3. The biennial budget is adopted by City Council resolution prior to July 1.
4. Expenditures may not legally exceed budgeted appropriations at the fund level.
5. All budget adjustments and transfers between funds must be approved by the City Council by resolution during the fiscal year. The City Manager and Finance Director are authorized to transfer unencumbered appropriations within a department and between departments.
6. Formal budgetary integration, including the recording of encumbrances, is employed as a management control device during the year in all budgeted funds. Under encumbrance accounting, purchase orders, contracts, and other commitments for the expenditure of moneys are recorded in order to reserve that portion of the applicable appropriation

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 2 BUDGET AND BUDGETARY ACCOUNTING (CONTINUED)

A. Budgeting Procedures (Continued)

Remaining appropriations lapse at year-end and must be reappropriated in the following year.

7. Budgets are adopted on a basis consistent with accounting principles generally accepted in the United States of America (GAAP) for all governmental funds with planned operations for the year. For fiscal-year 2024-25, the following funds did not have adopted budgets: Developer Deposits, FEMA, Valero GNSC, Park Dedication.
8. The following fund exceeded budget expenditures in FY 2024-25: Developer Deposits (\$33,022)

Budgeted amounts are as originally adopted or as amended by the City Council. Individual amendments were not material in relation to the original appropriations. Budget and actual comparison for the General Fund are presented at the department level except for Administration, which is composed of City Council, City Manager, Treasurer, Finance, City Attorney, Human Resources, and City Clerk.

NOTE 3 CASH AND INVESTMENTS

The City's dependence on property tax receipts, which are received semi-annually, requires it to maintain significant cash reserves to finance operations during the remainder of the year. The City pools cash from all sources and all funds except cash and investments held by trustees so that it can be invested at the maximum yield consistent with safety and liquidity, while individual funds can make expenditures at any time.

A. Policies

California Law requires banks and savings and loan institutions to pledge government securities with a market value of 110% of the City's cash on deposit, or first trust deed mortgage notes with a market value of 150% of the deposit, as collateral for these deposits. Under California law, this collateral is held in a separate investment pool by another institution in the City's name and places the City ahead of general creditors of the institution.

The City pools cash from all sources and all funds, except certain specific investments within funds and cash with fiscal agents, so that it can be invested at the maximum yield, consistent with safety and liquidity, while individual funds can make expenditures at any time.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

A. Policies (Continued)

The City and its fiscal agents invest in individual investments and in investment pools. Individual investments are evidenced by specific identifiable pieces of paper called *security instruments*, or by an electronic entry registering the owner in the records of the institution issuing the security, called the *book entry* system. Individual investments are generally made by the City's fiscal agents as required under its debt issues. In order to maximize security, the City employs the Trust Department of a bank as the custodian of all City managed investments, regardless of their form.

The City's investments are carried at fair value, as required by generally accepted accounting principles. The City adjusts the carrying value of its investments to reflect their fair value at each fiscal year-end, and it includes the effects of these adjustments in income for that fiscal year.

B. Classification

Cash and investments are classified in the financial statements as shown below, based on whether or not their use is restricted under the terms of City debt instruments.

Statement of Net Position:

Cash and Investments Available for City Operations	\$ 129,624,293
Restricted Cash and Investments Held by Fiscal Agent	<u>8,266,769</u>
City Cash and Investments of Primary Government	137,891,062

Restricted Cash and Investments in Fiduciary Funds (Separate Statement):

Affordable Housing Trust Fund	24,650
Custodial Funds	<u>1,533,893</u>

Total Cash and Investments	<u><u>\$ 139,449,605</u></u>

Cash and investments as of June 30, 2025, consist of the following:

Cash on Hand	\$ 8,627
Deposits with Financial Institutions	16,168,013
Investments	<u>123,272,965</u>
Total Cash and Investments	<u><u>\$ 139,449,605</u></u>

Cash and investments available for City operations is used in preparing proprietary fund statements of cash flows because these assets are highly liquid and are expected to liquidate liabilities arising during the year.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

C. Investments Authorized by the California Government Code and the City's Investment Policy

The City's investment policy and the California Government Code allow the City to invest in the following, provided the credit ratings of the issuers are acceptable to the City; and approved percentages and maturities are not exceeded. The table below also identifies certain provisions of the California Government Code, or the City's Investment Policy where the City's Investment Policy is more restrictive.

Authorized Investment Type	Maximum Maturity	Minimum Credit Quality *	Maximum Percentage of Portfolio	Maximum Investment In One Issuer
Nonnegotiable Certificates of Deposit	5 Years	N/A	25%	No Limit
Bankers' Acceptances	180 Days	A-1	20%	No Limit
Municipal Obligations				
U.S. Treasury Bills and Notes	5 Years	N/A	No Limit	No Limit
U.S. Government Agency Securities	5 Years	N/A	No Limit	No Limit
U.S. Government-Sponsored Enterprise Agencies	5 Years	N/A	No Limit	No Limit
Repurchase Agreements	30 Days	A-1	N/A	\$1 Million
Medium-Term Corporate Notes	5 Years	A	30%	No Limit
Commercial Paper	270 Days	A-1	25%	Lesser of 10% Per Account
California Local Agency Investment Fund	N/A	N/A	N/A	\$75 Million Per Account
Money Market Funds	N/A	AAA	20%	Lesser of 10% or \$5 Million
Negotiable Certificates of Deposit	N/A	N/A	30%	No Limit
Asset-Backed Securities	5 Years	A	5%	No Limit
Supranational Obligations	5 Years	AA	5%	No Limit

* At Date of Purchase

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

D. Investments Authorized by Debt Agreements

The City must maintain required amounts of cash and investments with trustees or fiscal agents under the terms of certain debt issues. These funds are unexpended bond proceeds or are pledged reserves to be used if the City fails to meet its obligations under these debt issues. The California Government Code requires these funds to be invested in accordance with City resolutions, bond indentures, or state statutes. The table below identifies the investment types that are authorized for investments held by fiscal agents. The bond indentures contain no limitations for the maximum investment in any one issuer or the maximum percentage of the portfolio that may be invested in any one investment type. The table also identifies certain provisions of these debt agreements:

Authorized Investment Type	Maximum Maturity	Minimum Credit Quality
Bankers' Acceptances	360 Days	A-1
U.S. Treasury Bills and Notes	None	N/A
State General Obligations	None	A-1
Municipal Obligations	None	Aaa/AAA
U.S. Government Agency Securities	None to 3 Years	Aaa/AAA
U.S. Government-Sponsored Securities	None to 3 Years	Aaa/AAA
Federal Housing Administration Debentures	None	N/A
Repurchase Agreements	None to 1 Year	A
Commercial Paper	270 Days	A-1+
California Local Agency Investment Fund	N/A	N/A
Money Market Fund	N/A	AAm
Defeasance Securities	N/A	N/A
Pre-Refunded Municipal Obligations	None	Aaa/AAA
Investment Agreements	N/A	AA
Unsecured Certificates of Deposit	30 Days	A-1
CalTrust	None	N/A
Asset-Backed Securities	5 Years	A

E. Interest Rate Risk

Interest rate risk is the risk that changes in market interest rates will adversely affect the fair value of an investment. Normally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. The City generally manages its interest rate risk by holding investments to maturity.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

E. Interest Rate Risk (Continued)

Information about the sensitivity of the fair values of the City's investments (including investments held by bond trustees) to market interest rate fluctuations is provided by the following table that shows the distribution of the City's investments by maturity or earliest call date:

Investment Type	12 Months or Less	13 to 24 Months	25 to 36 Months	37 to 60 Months	Total
U.S. Treasury Notes	\$ 1,174,212	\$ 4,349,704	\$ 5,049,011	\$ 2,507,555	\$ 13,080,482
U.S. Government Agency Securities	1,473,942	-	-	-	1,473,942
U.S. Government Agency CMO's	133,224	1,104,705	777,782	3,189,199	5,204,910
Municipal Obligations	463,766	121,467	-	-	585,233
CAMP	-	-	-	-	81,121,736
California Local Agency Investment Fund	-	-	-	-	8,398,447
Medium-Term Corporate Notes	443,598	1,137,534	770,368	4,728,426	7,079,926
Negotiable Certificates of Deposit	853,010	-	-	-	853,010
Asset-Backed Securities	-	10,748	62,056	5,402,475	5,475,279
Total Investments	<u>\$ 4,541,752</u>	<u>\$ 6,724,158</u>	<u>\$ 6,659,217</u>	<u>\$ 15,827,655</u>	<u>\$ 123,272,965</u>

The City is a participant in the Local Agency Investment Fund (LAIF) that is regulated by California Government Code Section 16429 under the oversight of the Treasurer of the state of California. The balance is available for withdrawal on demand and is based on the accounting records maintained by LAIF, which are recorded on an amortized cost basis. Included in LAIF's investment portfolio are collateralized mortgage obligations, mortgage-backed securities, other asset-backed securities, loans to certain state funds, United States Treasury Notes and Bills, and floating rate securities issued by federal agencies, government-sponsored enterprises, and corporations. At June 30, 2025, these investments matured in an average of 260 days.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

F. Credit Risk

Credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. The actual ratings as of June 30, 2025, for all investments are as provided by Standard and Poor's investment rating system except as noted. The California Local Agency Investment Fund was not rated as of June 30, 2025.

Investment Type	Total
Rated AAA:	
Asset-Backed Securities	\$ 4,265,199
Medium-Term Corporate Notes	445,377
Municipal Obligation	99,696
Rated AA+:	
U.S. Government Agency Securities Noncallable	6,678,851
U.S. Treasury Notes	13,080,482
Rated AA:	
Medium-Term Corporate Notes	593,780
Municipal Obligation	285,000
Rated AA-:	
Medium-Term Corporate Notes	710,497
Municipal Obligation	200,537
Rated A+:	
Medium-Term Corporate Notes	1,870,626
Rated A:	
Medium-Term Corporate Notes	1,482,455
Rated A-:	
Medium-Term Corporate Notes	1,723,693
Negotiable Certificates of Deposit	426,578
Rated A-1+:	
Negotiable Certificates of Deposit	426,433
Rated BBB+:	
Medium-Term Corporate Notes	253,498
Not Rated:	
CAMP	81,121,736
California Local Agency Investment Fund	8,398,447
Asset-Backed Securities	1,210,080
Total Investments	<u>\$ 123,272,965</u>

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

G. Fair Value Hierarchy

The City categorizes its fair value measurements within the fair value hierarchy established by generally accepted accounting principles. The hierarchy is based on the valuation inputs used to measure fair value of the assets. Level 1 inputs are quoted prices in an active market for identical assets; Level 2 inputs are significant other observable inputs; and Level 3 inputs are significant unobservable inputs.

The following is a summary of the fair value hierarchy of the fair value of investments of the City as of June 30, 2025:

		Fair Value Measurements Using:	
	Total	Level 1	Level 2
Investments by Fair Value Level:			
Held by City:			
U.S. Treasury Notes	\$ 13,080,482	\$ 13,080,482	\$ -
U.S. Government Agency Securities	6,678,852	-	6,678,852
Municipal Bonds	585,233	-	585,233
Medium-Term Corporate Notes	7,079,926	-	7,079,926
Negotiable Certificates of Deposit	853,010	-	853,010
Asset-Backed Securities	5,475,279	-	5,475,279
Subtotal	<u>\$ 33,752,782</u>	<u>\$ 13,080,482</u>	<u>\$ 20,672,300</u>
Investments Exempt from Fair Value Hierarchy:			
CAMP	\$ 81,121,736		
California Local Agency Investment Fund	<u>8,398,447</u>		
Total Investments	<u>\$ 123,272,965</u>		

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

G. Fair Value Hierarchy (Continued)

U.S. Treasury bills and notes classified in Level 1 of the fair value hierarchy are valued using quoted prices in active markets. Medium-term corporate notes, negotiable certificates of deposit, and U.S. government-sponsored enterprise agency securities, classified in Level 2 of the fair value hierarchy, are valued using matrix pricing techniques maintained by various pricing vendors. Matrix pricing is used to value securities based on the securities' relationship to benchmark quoted prices.

NOTE 4 INTERFUND TRANSACTIONS

A. Transfers Between Funds

With Council approval, resources may be transferred from one City fund to another. Transfers between funds during the fiscal year ended June 30, 2025, were as follows:

Fund Making Transfer	Fund Receiving Transfers	Amount Transferred	
General Fund	Capital Projects	\$ 1,030,000	(B)
	Wastewater	76,401	(A)
	Benicia Marina	312,000	(A)
	Internal Service Funds	2,326,000	(A)
	Nonmajor Governmental Funds	1,161,144	(A)
Capital Projects	General Fund	12,207	(A)
	Nonmajor Governmental Funds	72,650	(A)
Wastewater	Nonmajor Governmental Funds	59,184	(A)
Water	Nonmajor Governmental Funds	60,336	(A)
Miscellaneous Grants	General Fund	105,400	(A)
Internal Service Funds	Nonmajor Governmental Funds	7,812	(A)
Nonmajor Governmental Funds	General Fund	124,411	(A)
	Nonmajor Governmental Funds	<u>9,182</u>	(A)
Total		<u><u>\$ 5,356,727</u></u>	

(A) Transfer to Fund City Operations

(B) Transfer to Fund Capital Projects

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 4 INTERFUND TRANSACTIONS (CONTINUED)

B. Internal Balances

Internal balances are presented in the entity-wide financial statements only. They represent the net interfund receivables and payables remaining after the elimination of all such balances within governmental and business-type activities.

C. Current Interfund Balances

Current interfund balances arise in the normal course of business and are expected to be repaid shortly after the end of the fiscal year. Interfund balances between funds during the fiscal year ended June 30, 2025 were as follows:

<u>Due from Other Funds</u>	<u>Due to Other Funds</u>	<u>Amount</u>
General Fund	Nonmajor Governmental Funds	\$ 427,291
	Total	<u>\$ 427,291</u>

NOTE 5 LOANS RECEIVABLE

At June 30, 2025, the City had the following loans receivable:

	<u>Balance at June 30, 2025</u>		
	<u>Governmental Activities</u>	<u>Business-Type Activities</u>	<u>Total</u>
Housing Rehabilitation Loan Program	\$ 10,000	\$ -	\$ 10,000
Burgess Point:			
Benicia Housing Partners	550,000	-	550,000
Benicia Housing Authority	340,000	845,000	1,185,000
Hearthstone Village:			
Affordable Housing Affiliation	99,624	104,463	204,087
Bay Ridge Affordable Housing	-	756,750	756,750
Casa De Vilarrasa:			
Benicia Housing Authority	1,400,000	-	1,400,000
Benicia Resource Incentive Program:			
Dohman Investments	1,250	-	1,250
Finance Development Fees			
Ponder Environmental Services	1,667	-	1,667
Total Loans Receivable	<u>2,402,541</u>	<u>1,706,213</u>	<u>4,108,754</u>
Less: Forgivable Amounts	<u>(2,399,624)</u>	<u>(1,706,213)</u>	<u>(4,105,837)</u>
Total	<u>\$ 2,917</u>	<u>\$ -</u>	<u>\$ 2,917</u>

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 6 CAPITAL ASSETS

A. Capital Asset Activity

Capital asset activity during the fiscal year was as follows:

	Balance at July 1, 2024	Additions	Retirements	Transfers	Adjustments	Balance at June 30, 2025
Governmental Activities:						
Capital Assets, Not Depreciated:						
Land	\$ 18,545,953	\$ -	\$ -	\$ -	\$ -	\$ 18,545,953
Construction In Progress	3,112,783	1,529,067	-	(3,126,050)	408,814	1,924,614
Total Capital Assets, Not Depreciated	21,658,736	1,529,067	-	(3,126,050)	408,814	20,470,567
Capital Assets, Depreciable/ Amortizable:						
Building and Improvements	19,764,673	229,212	-	-	11,682,707	31,676,592
Machinery and Equipment	14,718,672	748,893	(397,160)	509,259	3,284,480	18,864,144
Computer Software	559,567	-	-	-	-	559,567
Infrastructure	180,002,633	86,811	-	2,616,791	(13,312,315)	169,393,920
Right-to-use Equipment	918,799	-	(12,619)	-	-	906,180
Right-to-use Structures	2,208,336	-	-	-	-	2,208,336
SBITAs	2,101,945	-	(233,320)	-	-	1,868,625
Total Capital Assets, Depreciable/Amortizable	220,274,625	1,064,916	(643,099)	3,126,050	1,654,872	225,477,364
Less: Accumulated Depreciation/ Amortization:						
Building and Improvements	(15,057,720)	(991,249)	-	-	(2,955,837)	(19,004,806)
Machinery and Equipment	(11,377,074)	(686,335)	397,160	-	(589,253)	(12,255,502)
Computer Software	(491,560)	(70,076)	-	-	2,069	(559,567)
Infrastructure	(91,824,013)	(3,079,655)	-	-	3,003,218	(91,900,450)
Right-to-use Equipment	(322,432)	(156,221)	12,619	-	-	(466,034)
Right-to-use Structures	(257,290)	(85,761)	-	-	-	(343,051)
SBITAs	(750,148)	(413,276)	233,320	-	29,755	(900,349)
Total Accumulated Depreciation/Amortization	(120,080,237)	(5,482,573)	643,099	-	(510,048)	(125,429,759)
Net Depreciable/ Amortizable Assets	100,194,388	(4,417,657)	-	3,126,050	1,144,824	100,047,605
Governmental Activities						
Capital Assets, Net	\$ 121,853,124	\$ (2,888,590)	\$ -	\$ -	\$ 1,553,638	\$ 120,518,172

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 6 CAPITAL ASSETS (CONTINUED)

A. Capital Asset Activity (Continued)

	Balance July 1, 2024	Additions	Retirements	Transfers	Adjustments	Balance June 30, 2025
Business-Type Activities:						
Capital Assets, Not Depreciated:						
Land and Improvements	\$ 2,584,082	\$ -	\$ -	\$ -	\$ -	\$ 2,584,082
Construction In Progress	5,485,920	138,257	-	(5,137,175)	-	487,002
Total Capital Assets, Not Depreciated	8,070,002	138,257	-	(5,137,175)	-	3,071,084
Capital Assets, Depreciable/ Amortizable:						
Building and Improvements	92,838,625	55,947	-	217,409	(1,312,586)	91,799,395
Machinery and Equipment	10,435,505	230,348	(24,471)	-	379,308	11,020,690
Infrastructure	88,675,535	3,232,785	-	4,919,766	1,312,582	98,140,668
Water Rights	5,000,000	-	-	-	-	5,000,000
Right-to-use Equipment	186,261	-	-	-	-	186,261
SBITAs	359,681	-	(156,342)	-	-	203,339
Total Capital Assets, Depreciable/Amortizable	197,495,607	3,519,080	(180,813)	5,137,175	379,304	206,350,353
Less: Accumulated Depreciation/ Amortization:						
Building and Improvements	(62,602,547)	(1,500,332)	-	-	(7,260)	(64,110,139)
Machinery and Equipment	(7,910,335)	(307,005)	24,471	-	(483,061)	(8,675,930)
Infrastructure	(55,016,564)	(1,111,560)	-	-	113,969	(56,014,155)
Water Rights	(3,000,000)	(200,000)	-	-	-	(3,200,000)
Right-to-use Equipment	(63,860)	(31,931)	-	-	-	(95,791)
SBITAs	(204,334)	(84,050)	156,342	-	-	(132,042)
Total Accumulated Depreciation/Amortization	(128,797,640)	(3,234,878)	180,813	-	(376,352)	(132,228,057)
Net Depreciable/ Amortizable Assets	68,697,967	284,202	-	5,137,175	2,952	74,122,296
Business-Type Activities Capital Assets, Net	<u>\$ 76,767,969</u>	<u>\$ 422,459</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,952</u>	<u>\$ 77,193,380</u>

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 6 CAPITAL ASSETS (CONTINUED)

B. Depreciation and Amortization Allocation

Depreciation and amortization expense is charged to functions and programs based on their usage of the related assets. The amounts allocated to each function or programs are as follows:

Governmental Activities:

Administration	\$ 137,386
Public Safety - Police	554,176
Public Safety - Fire	416,761
Parks and Community Services	663,937
Public Works	2,874,526
Education	730
Library	1,514
Internal Service Fund	833,543
Total Governmental Activities	<u><u>\$ 5,482,573</u></u>

Business-Type Activities:

Wastewater	\$ 2,120,175
Water	965,047
Benicia Marina	149,656
Total Business-Type Activities	<u><u>\$ 3,234,878</u></u>

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 7 LONG-TERM DEBT

The City generally incurs long-term debt to finance projects or purchase assets, which will have useful lives equal to or greater than the related debt.

The City's debt issues and transactions are summarized below and discussed in detail thereafter.

A. Current Year Transactions and Balances

	(1) Restated Balance at July 1, 2024	Additions/ Accretion	Deletions	Balance at June 30, 2025	Due Within One Year
Governmental Activities:					
Compensated Absences	\$ 4,334,909	\$ -	\$ 36,222	\$ 4,298,687	\$ 1,192,762
2006 Pension Obligation Bonds:					
Series A-1 (Current Interest Bonds)	3,670,000	-	-	3,670,000	-
Series A-2 (Capital Appreciation Bonds)	3,089,600	182,286	455,000	2,816,886	475,000
2016 Certificates of Participation:					
Energy Conservation Refinancing Project	9,200,000	-	510,000	8,690,000	570,000
Plus Unamortized Original Issue Premium	271,513	-	23,903	247,610	-
Governmental Activity Debt - Direct Borrowing:					
Casa de Vilarrasa - Finance Purchase	110,565	-	110,565	-	-
Lease Payable	2,532,148	-	266,873	2,265,275	271,829
SBITA Payable	1,318,719	-	386,615	932,104	397,608
Total Governmental Activities	\$ 24,527,454	\$ 182,286	\$ 1,789,178	\$ 22,920,562	\$ 2,907,199
Business-Type Activities:					
Compensated Absences	\$ 883,887	\$ -	\$ 46,215	\$ 837,672	\$ 289,858
Debt - Direct Borrowing:					
State of California Marina Loans	901,141	-	270,665	630,476	282,845
State Revolving Loan Fund Water Treatment Plant	2,131,087	-	693,579	1,437,508	710,255
Wells Fargo Equipment Purchase Agreement	-	-	-	-	-
Siemens Purchase Agreement	4,705,869	-	537,020	4,168,849	551,702
Lease Payable	105,103	-	41,446	63,657	42,938
SBITA Payable	143,654	-	88,178	55,476	52,238
Total Business-Type Activities	\$ 8,870,741	\$ -	\$ 1,677,103	\$ 7,193,638	\$ 1,929,836

- (1) The beginning balances of compensated absences for both Governmental Activities and Business-Type Activities were restated in accordance with implementation of GASB Statement No. 101. The change in compensated absences is presented as a net amount.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 7 LONG-TERM DEBT (CONTINUED)

B. 2006 Pension Obligation Bonds

On June 15, 2006, the California Statewide Communities Development Authority issued the 2006 Series A- 1 Current Interest Bonds and Series A-2 Capital Appreciation Bonds in the amounts of \$27,985,000 and \$34,828,647, of which \$7,430,000 and \$6,542,596 were the City's portion. The bond proceeds were used to partially fund the unfunded actuarial accrued liability of the Miscellaneous and Safety pension plans through the California Public Employees' Retirement System.

The Series A-1 Current Interest Bonds bear interest rates of 5.69%-5.93%. Principal payments are due annually through 2036. Interest payments are payable semi-annually on June 1 and December 1.

The Series A-2 Capital Appreciation Bonds unaccreted discount totaled \$562,823 at June 30, 2025. The capital appreciation bonds will accrete interest from the date of issuance and will be payable only upon maturity or redemption. The bonds are payable in any form of taxation. Interest on the Bonds accretes in value at the rates of 5.67% to 6.12%. Repayments of the accreted principal commenced on June 1, 2008.

C. 2016 Certificates of Participation Energy Conservation Refinancing Project

On April 7, 2011, the Public Property Financing Corporation of California (Corporation) issued Certificates of Participation (COPs) – 2011 Energy Conservation Projects (2011 Certificates) in the amount of \$13,195,000. The proceeds of the 2011 Certificates were used to finance various energy conservation projects throughout the vicinity of City of Benicia.

On October 4, 2016, the City Council authorized the issuance of the 2016 Refunding Certificates of Participation in the amount of \$11,745,000 to advance refund the 2011 Certificates, refinance the costs of energy conservation projects, and to pay the costs of issuance for Refunding Certificates of Participation.

The 2016 Certificates contain a provision that in an event of default, the Corporation shall exercise any and all remedies available pursuant to law or granted pursuant to the lease agreement.

D. Casa de Vilarrasa – Finance Purchase Agreement

In March 2005, the City entered into a loan agreement for \$1.4 million, at 4.5% interest, to finance the loan receivable from the Benicia Housing Authority as disclosed in Note 5F. Semi-annual payments are due on September 1 and March 1 each year. The first four payments were interest only and are financed from the lease proceeds. The loan principal is to be amortized over 20 years.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 7 LONG-TERM DEBT (CONTINUED)

D. Casa de Vilarrasa – Finance Purchase Agreement (Continued)

The lease agreement contains a provision that in an event of default, the lessor shall exercise any and all remedies available pursuant to law or granted pursuant to the lease agreement and may terminate the lease agreement. The City shall continue to remain liable for the payment of lease payments and/or damages for breach of the lease agreement.

E. Wells Fargo – Finance Purchase Agreement

In October 2016, the City entered into an agreement for \$2,300,000, at 1.902% interest, to finance the purchase of seven large vehicle for the Fire Department and Public Works Department. The gross amount of capital assets acquired under this financed purchase lease was \$2,618,456. Semi-annual payments are due on May and November each year through 2026.

The lease agreement contains a provision that in an event of default, an amount equal to the basic rental payments and other amount due under the lease during the current fiscal period shall automatically become and be immediately due and payable without notice or demand of any kind. The lessor may also exercise any other right or remedy available to it by law or by agreement and may in any event recover legal fees and other costs and expenses incurred by reason of an Event of Default or the exercise of any remedy hereunder.

F. State of California Marina Loans

From 1976 through 1984, the State of California loaned the City a total of \$6,046,730 for various construction projects for the City's marina. Interest and principal are payable annually on August 1 through 2027. Debt service is payable from marina revenues and general fund transfers.

In an event of default, the City shall, upon demand, immediately accelerate the payment of all principal owed under this loan agreement, if any, which shall be immediately due and payable; pay interest at the highest legal rate on all amounts owed; and pay any additional payments as defined in the loan agreement.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 7 LONG-TERM DEBT (CONTINUED)

G. State Revolving Loan Fund – Water Treatment Plant

In 2004, the City entered into a State Revolving Fund loan agreement with the State Department of Water Resources to assist financing the Water Treatment Plant Improvement Project, which will enable the City to meet safe drinking water standards set by the state. The loan is a long-term liability of the Water Enterprise Fund, bearing interest of 2.39%. Principal and interest are payable semi-annually on January 1 and July 1 of each year, commencing January 1, 2008 through 2027. The maximum amount the City can borrow is \$13,600,000; however, the City only borrowed \$11,716,747.

In an event of default, the City shall, upon demand, immediately accelerate the payment of all principal owed under this loan agreement, if any, which shall be immediately due and payable; pay interest at the highest legal rate on all amounts owed; and pay any additional payments as defined in the loan agreement.

H. Siemens Lease Purchase Agreement

In October 2016, the City entered into a lease purchase agreement for \$7,991,765, at 2.57% interest, to lease energy savings equipment, installation of water meters and advance metering infrastructure system, and any other related services. Semi-annual payments are due on May 1 and November 1 each year.

The lease agreement contains a provision that in an event of default, the lessor may declare an amount equal to all amounts then due under the lease, and all remaining lease payments and other amounts due during the fiscal year to be immediately due and payable. The lessor may also exercise any other right or remedy available to it by law or by agreement and may in any event recover legal fees and other costs and expenses incurred by reason of an Event of Default or the exercise of any remedy hereunder.

I. Pledged Revenue

The City has pledged future water revenues, net of specified operating expenses, to repay the State Revolving Loan Fund – Water Treatment Plant. Projected net customer revenues are expected to provide coverage over debt service of at least 1.20 over the life of the bonds. For fiscal year 2025, gross Water Fund Revenues including operating revenues and nonoperating interest earnings totaled \$16,909,374 and operating costs, not including depreciation or amortization, totaled \$11,174,777. Net Revenues available for debt service totaled \$5,734,597, which represented coverage of 774.54% of debt service payment of \$740,392.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 7 LONG-TERM DEBT (CONTINUED)

J. Debt Service Requirements

Annual debt service requirements are shown below for all long-term debt:

<u>Year Ending June 30,</u>	Governmental Activities Pension Obligation Bonds	
	Principal (A)	Interest
2026	\$ 475,000	\$ 217,631
2027	500,000	217,631
2028	525,000	217,631
2029	550,000	217,631
2030	580,000	217,631
2031-2035	1,185,000	870,524
2035-2036	709,709	435,262
Total	<u>\$ 7,049,709</u>	<u>\$ 2,267,335</u>

(A) Includes Unaccrued Interest Totaling \$562,823

<u>Year Ending June 30,</u>	Governmental Activities Certificates of Participation	
	Principal	Interest
2026	\$ 570,000	\$ 271,744
2027	400,000	248,944
2028	455,000	232,944
2029	505,000	221,569
2030	560,000	208,944
2031-2035	4,900,000	705,681
2036	1,300,000	42,250
Total	8,690,000	<u>\$ 1,932,075</u>
Plus: Unamortized Bond Premium	247,610	
Total	<u>\$ 8,937,610</u>	

<u>Year Ending June 30,</u>	Enterprise Activities Revolving and Marina Loans, Direct Borrowings	
	Principal	Interest
2026	\$ 710,255	\$ 30,138
2027	727,253	37,076
Total	<u>\$ 1,437,508</u>	<u>\$ 67,214</u>

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 7 LONG-TERM DEBT (CONTINUED)

J. Debt Service Requirements (Continued)

Year Ending June 30,	Enterprise Activities Marina Loans, Direct Borrowings	
	Principal	Interest
2026	\$ 282,845	\$ 28,455
2027	262,510	15,727
2028	85,121	5,766
Total	<u>\$ 630,476</u>	<u>\$ 49,948</u>

Year Ending June 30,	Enterprise Activities Finance Purchase, Direct Borrowings	
	Principal	Interest
2026	\$ 551,702	\$ 103,622
2027	565,160	89,373
2028	579,778	74,755
2029	594,774	59,759
2030	610,158	44,375
2031-2032	1,267,277	40,997
Total	<u>\$ 4,168,849</u>	<u>\$ 412,882</u>

K. Special Assessment Debt Without City Commitment

At June 30, 2025, the outstanding principal amount of bonded debt issued by special assessment districts in the City was as follows:

McAllister	\$ 3,685,168

The City has no legal or moral responsibility with respect to the payment of this debt and has therefore, not recorded it as a liability. However, the City is responsible for the construction of the improvements financed by the Districts; therefore, the related Capital Projects Funds are reflected in the City's financial statements. The City is also responsible, as the Districts' agent, for recording the Districts' cash receipts, disbursements, and balances, which are reported as Custodial Fund transactions in the financial statements.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 8 LEASES

A. City as Lessor

The City leases out several of its buildings and land. Lease terms may vary, with current agreements going out until fiscal year 2049 and interest rates from 0.869% - 2.73%. For agreements with renewal options, the City has included the renewal periods in the lease term when it is reasonably certain that the renewal option(s) will be exercised. For contracts that contain termination options for either party to exercise (cancellable period), these periods are excluded from the lease receivable calculation. The City's lease arrangements do not contain any material residual value guarantees.

Minimum lease payments receivable on leases of properties as of June 30, 2025, are as follows:

<u>Year Ending June 30,</u>	<u>Governmental Activities</u>		<u>Business-Type Activities</u>	
	<u>Principal</u>	<u>Interest</u>	<u>Principal</u>	<u>Interest</u>
2026	\$ 408,552	\$ 57,157	\$ 150,993	\$ 33,348
2027	415,157	52,404	154,359	29,982
2028	425,893	47,574	157,803	26,538
2029	398,718	42,713	107,677	23,234
2030	238,132	39,322	56,043	21,438
2031-2035	1,090,994	158,742	304,073	83,332
2036-2040	1,121,338	98,139	348,009	39,396
2041-2045	1,121,742	28,960	75,418	2,063
Total Minimum Lease Payments	<u>\$ 5,220,526</u>	<u>\$ 525,011</u>	<u>\$ 1,354,375</u>	<u>\$ 259,331</u>

The total amount of revenue (inflows of resources) relating to leases recognized in the current fiscal year is as follows:

<u>June 30, 2025</u>	<u>Governmental Activities</u>	<u>Business-Type Activities</u>
Lease Revenue	\$ 402,073	\$ 147,701
Lease Interest	61,838	36,640

The City did not have any leases of assets that are investments, regulated leases, sublease transactions, sale leaseback transactions, or leaseback transactions requiring disclosure.

B. City as Lessee

The City leases copiers, cameras and buildings for operational use under a long-term, noncancelable lease agreement. The lease expires in fiscal year 2047 with interest rates ranging from 1.84% - 2.78%.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 8 LEASES (CONTINUED)

B. City as Lessee (Continued)

Total future minimum lease payments under lease agreements are as follows:

<u>Year Ending June 30,</u>	<u>Governmental Activities</u>	
	<u>Principal</u>	<u>Interest</u>
2026	\$ 271,830	\$ 58,577
2027	172,427	52,777
2028	70,140	49,860
2029	72,120	47,880
2030	74,155	45,845
2031-2035	403,384	196,616
2036 and thereafter	1,201,219	208,781
Total Minimum Lease Payments	<u>\$ 2,265,275</u>	<u>\$ 660,336</u>

<u>Year Ending June 30,</u>	<u>Business-Type Activities</u>	
	<u>Principal</u>	<u>Interest</u>
2026	\$ 42,938	\$ 1,011
2027	20,719	204
Total Minimum Lease Payments	<u>\$ 63,657</u>	<u>\$ 1,215</u>

NOTE 9 SUBSCRIPTION-BASED INFORMATION TECHNOLOGY ARRANGEMENTS

The City has entered into various long-term, non-cancellable subscription-based information technology agreements. Total future minimum lease payments under these agreements are as follows:

<u>Year Ending June 30,</u>	<u>Governmental Activities</u>	
	<u>Principal</u>	<u>Interest</u>
2026	\$ 397,608	\$ 22,947
2027	357,492	13,018
2028	177,004	4,298
Total Minimum Lease Payments	<u>\$ 932,104</u>	<u>\$ 40,263</u>

<u>Year Ending June 30,</u>	<u>Business-Type Activities</u>	
	<u>Principal</u>	<u>Interest</u>
2026	\$ 52,238	\$ 1,363
2027	3,238	60
Total Minimum Lease Payments	<u>\$ 55,476</u>	<u>\$ 1,423</u>

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 10 NET POSITION AND FUND BALANCES

A. Net Position

Net position is the excess of all the City's assets and deferred outflows over all its liabilities and deferred inflow, regardless of fund. Net position is divided into three captions on the statement of net position. These captions apply only to net position, which is determined at the government-wide level and proprietary funds and are described on the next page:

Net Investment in Capital Assets – Describes the portion of net position which is represented by the current net book value of the City's capital assets, less the outstanding balance of any debt issued to finance these assets.

Restricted – Describes the portion of net position which is restricted as to use by the terms and conditions of agreements with outside parties, governmental regulations, laws, or other restrictions which the City cannot unilaterally alter. These principally include developer fees received for use on capital projects, debt service requirements, and funds restricted to low- and moderate-income purposes.

Unrestricted – Describes the portion of net position which is not restricted as to use or invested in capital assets.

It is the City's policy to consider restricted net position to have been depleted before unrestricted net position is applied.

B. Fund Balances

Governmental fund balances represent the net current assets of each fund. Net current assets generally represent a fund's cash and receivables, less its liabilities.

The City's fund balances are classified based on spending constraints imposed on the use of resources. For programs with multiple funding sources, the City prioritizes and expends funds in the following order: Restricted, Committed, Assigned, and Unassigned. Each category in the following hierarchy is ranked according to the degree of spending constraint:

Nonspendable – Represents balances set aside to indicate items do not represent available, spendable resources even though they are a component of assets. Fund balances required to be maintained intact, such as Permanent Funds, and assets not expected to be converted to cash, such as prepaids, notes receivable, and land held for redevelopment are included. However, if proceeds realized from the sale or collection of nonspendable assets are restricted, committed, or assigned, then nonspendable amounts are required to be presented as a component of the applicable category.

Restricted – Fund balances have external restrictions imposed by creditors, grantors, contributors, laws, regulations, or enabling legislation which requires the resources to be used only for a specific purpose. Nonspendable amounts subject to restrictions are included along with spendable resources.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 10 NET POSITION AND FUND BALANCES (CONTINUED)

B. Fund Balances (Continued)

Committed – Fund balances include amounts that can be used only for the specific purposes determined by a formal action of the City Council’s highest level of decision-making authority. The City Council can, by adoption of resolution prior to the end of the fiscal year, commit fund balance. Once adopted, the limitation imposed by the City Council remains in place until a similar action is taken (the adoption of another resolution to remove or revise the limitation).

Assigned – Fund balances are comprised of amounts intended to be used by the City for specific purposes that are neither restricted nor committed. Intent is expressed by the City Council or its designee and may be changed at the discretion of the City Council or its designee. The City has, by resolution, authorized the City Manager to assign fund balance.

Unassigned – Fund balance represents the residual classification for the General Fund and includes all amounts not contained in the other classifications. Unassigned amounts are technically available for any purpose. Other governmental funds may only report negative unassigned fund balance, which occurs when a fund has a residual deficit after allocation of fund balance to the nonspendable, restricted or committed categories.

Detailed classifications of the City’s Fund Balances, as of June 30, 2025, are stated below:

Fund Balance Classifications	General Fund	Capital Projects Fund	Miscellaneous Grants Fund	Other Governmental Funds	Total
Nonspendables:					
Items Not in Spendable Form:					
Long-term receivable	\$ 46,149	\$ -	\$ -	\$ -	\$ 46,149
Prepaid Items	127,296	-	-	-	127,296
Total Nonspendable Fund Balances	173,445	-	-	-	173,445
Restricted for:					
Community Services Programs	-	-	-	672,240	672,240
Capital Projects	-	10,020,039	-	-	10,020,039
Debt Service	-	-	-	1,592,572	1,592,572
Development Mitigation	-	-	-	85,670	85,670
Development Services	-	-	-	675,761	675,761
Housing	-	-	-	144,696	144,696
Special Revenue Projects	-	-	-	4,659,403	4,659,403
Landscaping and Lighting	-	-	-	1,069,848	1,069,848
Library Programs	-	-	-	66,492	66,492
Miscellaneous Grant Projects	-	-	167,026	-	167,026
Open Space	-	-	-	546,213	546,213
Other	-	-	-	372,596	372,596
Public Safety Programs	-	-	-	1,624,946	1,624,946
Streets and Road	-	-	-	863,826	863,826
Valero - GNSC	-	-	-	278,807	278,807
Pension	8,188,781	-	-	-	8,188,781
Total Restricted Fund Balances	8,188,781	10,020,039	167,026	12,653,070	31,028,916

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 10 NET POSITION AND FUND BALANCES (CONTINUED)

B. Fund Balances (Continued)

Fund Balance Classifications (Continued)	General Fund	Capital Projects Fund	Miscellaneous Grants Fund	Other Governmental Funds	Total
Committed to:					
Contingency Reserves	\$ 11,083,052	\$ -	\$ -	\$ -	\$ 11,083,052
Capital Projects	10,093,239	346,145	-	-	10,439,384
Pension Trust	878,799	-	-	-	878,799
Staff Retention	439,400	-	-	-	439,400
Sustainable Community Based	662,696	-	-	-	662,696
General Plan Maintenance	577,696	-	-	-	577,696
Total Committed Fund Balances	23,734,882	346,145	-	-	24,081,027
Assigned to:					
Cable	30,010	-	-	-	30,010
Arts Culture	3,809	-	-	-	3,809
Economic Development	879,486	-	-	-	879,486
Human Services	63,695	-	-	-	63,695
Total Assigned Fund Balances	977,000	-	-	-	977,000
Total Unassigned Fund Balances	10,689,506	-	-	(453,975)	10,235,531
Total Fund Balances	<u>\$ 43,763,614</u>	<u>\$ 10,366,184</u>	<u>\$ 167,026</u>	<u>\$ 12,199,095</u>	<u>\$ 66,495,919</u>

C. Minimum Fund Balance Policies

The City's Budget and Fiscal Policy requires the City to strive to maintain a goal of 20% of annual adopted operating budget revenues in the General Fund's and Enterprise Fund's cash reserves. If the City falls below 20% thresholds in the General Fund and Enterprise Funds, the City is required to present a plan for replenishing reserves in a reasonable time to Council. The ability of the City to maintain 20% cash reserves in the General Fund and Enterprise funds depends upon the timing of infrastructure projects.

An Emergency Reserve is maintained in the General Fund to mitigate all unforeseen events not covered in the Contingency Reserves. The Emergency Reserves shall be appropriated by the City Council to provide for Natural Disaster expenditures of epic proportion, such as an 8.0 Earthquake or 200-Year Flood Event. These funds will only be used by Council formal action and for the purposes stated.

D. Fund Equity Deficits

The Streets and Transportation Fund had a deficit fund balance of \$453,975 at June 30, 2025. The deficit will be financed through future transfers to the funds.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 11 DEFERRED COMPENSATION PLAN

City employees may defer a portion of their compensation under a City sponsored Deferred Compensation Plan created in accordance with Internal Revenue Code Section 457. Under this plan, participants are not taxed on the deferred portion of their compensation until distributed to them. Distributions may be made only at termination, retirement, death, or in an emergency as defined by the Plan.

The laws governing deferred compensation plan assets require plan assets to be held by a Trust for the exclusive benefit of plan participants and their beneficiaries. Since assets held under these plans are not the City's property and are not subject to City control, they have been excluded from these financial statements.

NOTE 12 PENSION PLAN

A. Plan Descriptions and Summary of Balances by Plan

The City has two defined benefit pension plans, one Miscellaneous Plan and one Safety Plan (Police and Fire). The Miscellaneous Plan is an Agent-Multiple Employer Plan, and the Safety Plan is a Cost-Sharing Multiple Employer Plan. Benefit provisions under the Plans are established by State Statute and City Ordinance. All qualified permanent and probationary employees are eligible to participate in the Plan for which they are an eligible member based on their employment position with the City.

All the Plans are administered by the California Public Employees' Retirement System (CalPERS) which acts as a common investment and administrative agent for its participating member employers. CalPERS issues publicly available reports that include a full description of the pension plans regarding benefit provisions, assumptions and membership information that can be found on the CalPERS website.

For purposes of measuring the net pension liability and deferred outflows/inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the Miscellaneous and Safety Plans and additions to/deductions from the Plans' fiduciary net position have been determined on the same basis as they are reported by the CalPERS Financial Office. For this purpose, benefit payments (including refunds of employee contributions) are recognized when currently due and payable in accordance with the benefit terms. Investments are reported at fair value.

Below is a summary of the deferred outflows of resources, net pension liabilities and deferred inflows of resources by Plan:

	Deferred Outflows of Resources	Net Pension Liability	Deferred Inflows of Resources
Miscellaneous	\$ 9,255,666	\$ 39,768,470	\$ -
Safety (Police and Fire)	15,069,216	51,965,718	1,535,221
Total	<u>\$ 24,324,882</u>	<u>\$ 91,734,188</u>	<u>\$ 1,535,221</u>

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 12 PENSION PLAN (CONTINUED)

B. Miscellaneous Plan

Benefits Provided

CalPERS provides service retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members, who must be public employees and beneficiaries. Benefits are based on years of credited service, equal to one year of full-time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits. All members are eligible for nonduty disability benefits after 10 years of service. The death benefit is one of the following: the Basic Death Benefit, the 1957 Survivor Benefit, or the Optional Settlement 2W Death Benefit. The cost-of-living adjustments for each plan are applied as specified by the Public Employees' Retirement Law.

The Plan's provisions and benefits in effect at June 30, 2025, are summarized as follows:

	Prior to October 1, 2012	October 1, 2012 - January 1, 2023	After January 1, 2013
Hire Date			
Benefit Formula	2.7% @ 55	2.0% @ 60	2.0% @ 62
Benefit Vesting Schedule	5 Years of Service	5 Years of Service	5 Years of Service
Benefit Payments	Monthly for Life	Monthly for Life	Monthly for Life
Retirement Age	50 - 55	50 - 63	52 - 67
Monthly Benefits, as a Percentage of Eligible Compensation	2.0% to 2.7%	1.092% to 2.418%	1.0% to 2.5%
Required Employee Contribution Rates	8.00%	7.00%	6.75%
Required Employer Contribution Rates	30.167%	30.167%	30.167%

Beginning in fiscal year 2016, CalPERS collects employer contributions for the Plan as a percentage of payroll for the normal cost portion as noted in the rates above and as a dollar amount for contributions toward the unfunded liability (UAL). The dollar amounts are billed on a monthly basis. The City's required contribution for the unfunded liability in the Miscellaneous Plan was \$3,434,228 in fiscal year 2024-25.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 12 PENSION PLAN (CONTINUED)

B. Miscellaneous Plan (Continued)

Employees Covered

As of the June 30, 2023 actuarial valuation date and the June 30, 2024 measurement date, the following employees were covered by the benefit terms for the Plan:

	<u>Miscellaneous</u>
Inactive Employees or Beneficiaries Currently Receiving Benefits	235
Inactive Employees Entitled to but Not Yet Receiving Benefits	103
Active Employees	<u>160</u>
Total	<u><u>498</u></u>

Contributions

Section 20814(c) of the California Public Employees' Retirement Law requires that the employer contribution rates for all public employers be determined on an annual basis by the actuary and shall be effective on the July 1 following notice of a change in the rate. Funding contributions for both Plans are determined annually on an actuarial basis as of June 30 by CalPERS. The actuarially determined rate is the estimated amount necessary to finance the costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability. The City is required to contribute the difference between the actuarially determined rate and the contribution rate of employees.

Net Pension Liability

The City's net pension liability for the Plan is measured as the total pension liability, less the pension plan's fiduciary net position. The net pension liability of each of the Plan is measured as of June 30, 2024, using an annual actuarial valuation as of June 30, 2023, rolled forward to June 30, 2024, using standard update procedures. A summary of principal assumptions and methods used to determine the net pension liability is shown in Note 12D.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 12 PENSION PLAN (CONTINUED)

B. Miscellaneous Plan (Continued)

Changes in the Net Pension Liability

The changes in the net pension liability for the Plan follows:

	Increase (Decrease)		
	Total Pension Liability	Plan Fiduciary Net Position	Net Pension Liability/ (Asset)
Balances - June 30, 2023	\$ 146,823,245	\$ 106,603,810	\$ 40,219,435
Changes for the Year:			
Service Cost	2,669,914	-	2,669,914
Interest on the Total Pension Liability	10,156,091	-	10,156,091
Differences Between Expected and Actual Experience	2,794,434	-	2,794,434
Changes of Benefit Terms	-	-	-
Contribution - Employer	-	4,605,943	(4,605,943)
Contribution - Employee	-	1,277,790	(1,277,790)
Net Invest Income	-	10,274,415	(10,274,415)
Administrative Expenses	-	(86,744)	86,744
Benefit Payments, Including Refunds of Employee Contributions	(7,525,829)	(7,525,829)	-
Net Changes	8,094,610	8,545,575	(450,965)
Balances - June 30, 2024	\$ 154,917,855	\$ 115,149,385	\$ 39,768,470

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the Plan, calculated using the discount rate, as well as what the City's net pension liability would be if it were calculated using a discount rate that is one-percentage-point-lower or one-percentage-point-higher than the current rate:

	Pension		
	One Percent Decrease (5.90%)	Current Discount Rate (6.90%)	One Percent Increase (7.90%)
Net Pension Liability	\$ 60,631,102	\$ 39,768,470	\$ 22,809,955

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 12 PENSION PLAN (CONTINUED)

B. Miscellaneous Plan (Continued)

Pension Plan Fiduciary Net Position

Detailed information about each pension plan's fiduciary net position is available in the separately issued CalPERS financial reports.

Pension Expenses and Deferred Outflows/Inflows of Resources Related to Pensions

For the year ended June 30, 2025, the City recognized pension expense of \$7,221,963. At June 30, 2025, the City reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	Pension	
	Deferred Outflows of Resources	Deferred Inflows of Resources
Pension Contributions Subsequent to Measurement Date	\$ 5,157,233	\$ -
Differences Between Actual and Expected Experience	2,522,894	-
Changes in Assumptions	-	-
Net Difference Between Projected and Actual Earnings on Plan Investments	1,575,539	-
Total	<u>\$ 9,255,666</u>	<u>\$ -</u>

\$5,157,233 reported as deferred outflows of resources related to contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ended June 30, 2026. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized as pension expense as follows:

<u>Year Ending June 30,</u>	Annual <u>Amortization</u>
2025	\$ 1,603,575
2026	3,557,096
2027	(466,263)
2028	(595,975)
Total	<u>\$ 4,098,433</u>

Actuarial assumptions and information regarding the discount rate are discussed in Note 12D.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 12 PENSION PLAN (CONTINUED)

C. Safety Plan

The City's Safety Plan is part of the public agency cost-sharing, multiple-employer defined benefit pension plan (PERF C), which is administered by CalPERS. PERF C consists of a miscellaneous pool and a safety pool (also referred to as risk pools), which are comprised of individual employer miscellaneous and safety rate plans, respectively. Individual employers may sponsor more than one miscellaneous and safety rate plan. The employer participates in one cost-sharing, multiple-employer defined benefit pension plan regardless of the number of rate plans the employer sponsors. The City sponsors four rate plans within the safety risk pool.

Benefits Provided

CalPERS provides service retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members, who must be public employees and beneficiaries. Benefits are based on years of credited service, equal to one year of full-time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits. All members are eligible for nonduty disability benefits after 10 years of service. The death benefit is one of the following: the Basic Death Benefit, the 1957 Survivor Benefit, or the Optional Settlement 2W Death Benefit. The cost-of-living adjustments for each plan are applied as specified by the Public Employees' Retirement Law.

The Plan's provisions and benefits in effect at June 30, 2025, are summarized as follows:

	Prior to October 1, 2012	October 1, 2012 - January 1, 2013	After January 1, 2013
Hire Date			
Benefit Formula	3.0% @ 50	3.0% @ 55	2.7% @ 57
Benefit Vesting Schedule	5 Years of Service	5 Years of Service	5 Years of Service
Benefit Payments	Monthly for Life	Monthly for Life	Monthly for Life
Retirement Age	50	50 - 55	50 - 57
Monthly Benefits, as a Percentage of Eligible Compensation	3.0%	2.4% to 3.0%	2.0% to 2.7%
Required Employee Contribution Rates	8.990%	9.000%	13.75%
Required Employer Contribution Rates	25.540%	22.397%	13.884%

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 12 PENSION PLAN (CONTINUED)

C. Safety Plan (Continued)

Benefits Provided (Continued)

Beginning in fiscal year 2016, CalPERS collects employer contributions for the cost-sharing plan as a percentage of payroll for the normal cost portion as noted in the rates above and as a dollar amount for contributions toward the unfunded liability and side fund. The dollar amounts are billed on a monthly basis. The City's required contribution for the unfunded liability and side fund was \$4,082,651 in fiscal year 2024-25.

Contributions

Section 20814(c) of the California Public Employees' Retirement Law requires that the employer contribution rates for all public employers be determined on an annual basis by the actuary and shall be effective on the July 1 following notice of a change in the rate. Funding contributions for the Plan are determined annually on an actuarial basis as of June 30 by CalPERS. The actuarially determined rate is the estimated amount necessary to finance the costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability. The City is required to contribute the difference between the actuarially determined rate and the contribution rate of employees.

For the year ended June 30, 2025, the contributions recognized as part of pension expense for the Plan were as follows:

	Amount
Contributions - Employer	\$ 5,938,390
Contributions - Employee (Paid by Employer)	1,190,419
Total	<u>\$ 7,128,809</u>

Pension Liabilities, Pension Expenses, and Deferred Outflows/Inflows of Resources Related to Pensions

For purposes of measuring the net pension liability and deferred outflows/inflows of resources related to pensions, and pension expense, information about the fiduciary net position of the Plans and additions to/deductions from the Plans' fiduciary net position have been determined on the same basis as they are reported by the CalPERS Financial Office. For this purpose, benefit payments (including refunds of employee contributions) are recognized when currently due and payable in accordance with the benefit terms. Investments are reported at fair value.

As of June 30, 2025, the City reported net pension liabilities for its proportionate shares of the net pension liability of the Plan, was \$51,965,718.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 12 PENSION PLAN (CONTINUED)

C. Safety Plan (Continued)

Pension Liabilities, Pension Expenses, and Deferred Outflows/Inflows of Resources
Related to Pensions (Continued)

The City's net pension liability for the Plan is measured as the proportionate share of the net pension liability. The net pension liability of the Plan is measured as of June 30, 2024, and the total pension liability for the Plan used to calculate the net pension liability was determined by an actuarial valuation as of June 30, 2023, rolled forward to June 30, 2024, using standard update procedures. The City's proportion of the net pension liability was based on a projection of the City's long-term share of contributions to the pension plan relative to the projected contributions of all participating employers, actuarially determined. The City's proportionate share of the net pension liability for the Plan as of June 30, 2024 and 2025, was as follows:

	<u>Safety</u>
Proportion - June 30, 2024	0.70331 %
Proportion - June 30, 2025	0.71263 %
Change - Increase (Decrease)	<u>0.00932 %</u>

For the year ended June 30, 2025, the City recognized pension expense of \$9,480,828 for the Safety Plan. At June 30, 2025, the City reported deferred outflows of resources and deferred inflows of resources related to pensions for the Safety plan from the following sources:

	<u>Deferred</u>	<u>Deferred</u>
	<u>Outflows</u>	<u>Inflows</u>
	<u>of Resources</u>	<u>of Resources</u>
Pension Contributions Subsequent to Measurement Date	\$ 5,938,390	\$ -
Differences Between Expected and Actual Experience	4,240,130	137,865
Changes in Assumptions	1,280,107	-
Differences Between Employer's Contributions and Proportionate Share of Contributions	883,884	781,395
Change in Employer's Proportion	215,355	615,961
Net Difference Between Projected and Actual Earnings on Plan Investments	2,511,351	-
Total	<u>\$ 15,069,217</u>	<u>\$ 1,535,221</u>

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 12 PENSION PLAN (CONTINUED)

C. Safety Plan (Continued)

Pension Liabilities, Pension Expenses, and Deferred Outflows/Inflows of Resources Related to Pensions (Continued)

\$5,938,391 reported as deferred outflows of resources related to contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the year ended June 30, 2026. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized as pension expense as follows:

<u>Year Ending June 30,</u>	<u>Annual Amortization</u>
2025	\$ 2,708,267
2026	5,699,408
2027	47,201
2028	(859,270)
Total	<u>\$ 7,595,606</u>

Sensitivity of the Proportionate Share of the Net Pension Liability to Changes in the Discount Rate

The following presents the City's proportionate share of the net pension liability for each Plan, calculated using the discount rate for each Plan, as well as what the City's proportionate share of the net pension liability would be if it were calculated using a discount rate that is one-percentage-point-lower or one-percentage-point-higher than the current rate:

	<u>Safety</u>		
	<u>One Percent Decrease (5.90%)</u>	<u>Current Discount Rate (6.90%)</u>	<u>One Percent Increase (7.90%)</u>
Net Pension Liability	<u>\$ 74,741,509</u>	<u>\$ 51,956,718</u>	<u>\$ 33,321,963</u>

Actuarial assumptions and information regarding the discount rate are discussed in Note 12D on the next page.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 12 PENSION PLAN (CONTINUED)

D. Information Common to the Miscellaneous and Safety Plans

Actuarial Assumptions

For the measurement period ended June 30, 2024, the total pension liabilities were determined by rolling forward the June 30, 2023, total pension liability. The June 30, 2023 and June 30, 2024, total pension liabilities were based on the following actuarial methods and assumptions:

	<u>Miscellaneous and Safety (Police and Fire)</u>
Valuation Date	June 30, 2023
Measurement Date	June 30, 2024
Actuarial Cost Method	Entry-Age Normal Cost Method
Actuarial Assumptions:	
Investment Rate of Return	7.00% (1)
Inflation	2.50%
Projected Salary Increase	Varies by Entry Age and Service
Mortality	Derived using CalPERS Membership Data for all Funds (2)
Post Retirement Benefit Increase	Contract COLA up to 2.50% until Purchasing Power Protection Allowance Floor on Purchasing Power applies, 2.50% thereafter

(1) Net of pension plan investment and administrative expenses, including inflation.

(2) The mortality table used was developed based on CalPERS' specific data. The table includes 15 years of mortality improvements using Society of Actuaries Scale 90% of scale MP 2016. For more details on this table, please refer to the December 2017 experience study report (based on CalPERS demographic data from 1997 to 2015) that can be found on the CalPERS website.

The underlying assumptions and all other actuarial assumptions used in the June 30, 2019 valuation were based on the results of a December 2017 actuarial experience study for the period 1997 to 2015. Further details of the Experience Study can be found on the CalPERS website.

Discount Rate

The discount rate used to measure the total pension liability for each Plan was 6.90%. The projection of cash flows used to determine the discount rate for each Plan assumed that contributions from all plan members in the Public Employees Retirement Fund (PERF) will be made at the current member contribution rates and that contributions from employers will be made at statutorily required rates, actuarially determined. Based on those assumptions, each Plan's fiduciary net position was projected to be available to make all projected future benefit payments of current plan members for all plans in the PERF. Therefore, the long-term expected rate of return on plan investments was applied to all periods of projected benefit payments to determine the total pension liability for each Plan.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 12 PENSION PLAN (CONTINUED)

D. Information Common to the Miscellaneous and Safety Plans (Continued)

Discount Rate (Continued)

The long-term expected rate of return on pension plan investments was determined using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class.

In determining the long-term expected rate of return, CalPERS took into account both short-term and long-term market return expectations as well as the expected pension fund cash flows. Using historical returns of all the funds' asset classes, expected compound returns were calculated over the short-term (first 10 years) and the long-term (11+ years) using a building-block approach. Using the expected nominal returns for both short-term and long-term, the present value of benefits was calculated for each fund. The expected rate of return was set by calculating the rounded single equivalent expected return that arrived at the same present value of benefits for cash flows as the one calculated using both short-term and long-term returns. The expected rate of return was then set equal to the single equivalent rate calculated above and adjusted to account for assumed administrative expenses.

The table below reflects the expected real rate of return by asset class.

Asset Class (a)	Assumed Asset Allocation	Real Return (1) (2)
Global Equity - Cap-Weighted	30.0 %	4.54 %
Global Equity Non-Cap-Weighted	12.0	3.84
Private Equity	13.0	7.28
Treasury	5.0	0.27
Mortgage-Backed Securities	5.0	0.50
Investment Grade Corporates	10.0	1.56
High Yield	5.0	2.27
Emerging Market Debt	5.0	2.48
Private Debt	5.0	3.57
Real Assets	15.0	3.21
Leverage	(5.0)	(0.59)
Total	100.0 %	

(1) An expected inflation of 2.30% used for this period

(2) Figures are based on the 2021-22 Asset Liability Management study.

Pension Plan Fiduciary Net Position

Detailed information about each pension plan's fiduciary net position is available in the separately issued CalPERS financial reports.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 12 PENSION PLAN (CONTINUED)

D. Information Common to the Miscellaneous and Safety Plans (Continued)

Pension Expenses

For the year ended June 30, 2025, the City recognized pension expense of \$16,702,791. for both the Miscellaneous and Safety Plans.

NOTE 13 OTHER POSTEMPLOYMENT BENEFITS

A. General Information about the City's Other Post Employment Benefit (OPEB) Plan

Plan Description

The City's Post Employment Benefit Plan contracts with Kaiser, Ameritas Dental and Vision, and United Healthcare to provide medical, dental, and vision benefits to both active and retired employees through a single employer defined benefit plan. The City pays no direct financial contribution towards retiree health benefits; however, due to the fact that retirees and active employees are ensured in the same pool it indirectly subsidizes their premium through payments for current employees. No assets are accumulated in a trust that meets the criteria in paragraph 4 of Governmental Accounting Standards Board Statement No. 75.

Benefits Provided

The following is a summary of Plan benefits by employee group as of June 30, 2025:

Employees (and their spouses) are eligible for retiree health benefits if they retire from the City on or after age 50 with at least five years of service and are eligible for a PERS pension. Retirees younger than age 65 are required to contribute the full amount of the monthly medical insurance premiums that are in effect for active employees. Retirees who are age 65 or older are required to contribute the full amount of the monthly premium rates in effect for Medicare Supplement insurance.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 13 OTHER POSTEMPLOYMENT BENEFITS (CONTINUED)

A. General Information about the City's Other Post Employment Benefit (OPEB) Plan (Continued)

Employees Covered by Benefit Terms

Membership in the plan consisted of the following at the measurement date of June 30, 2025:

Active Employees	208
Inactive Employees or Beneficiaries Currently Receiving Benefit Payments	21
Inactive Employees Entitled to but Not Yet Receiving Benefit Payments	-
Total	<u><u>229</u></u>

B. Total OPEB Liability

Actuarial Methods and Assumptions

The City's total OPEB liability was measured as of June 30, 2024, and the total OPEB liability was determined by an actuarial valuation dated June 30, 2023, that was rolled forward using standard updated procedures to determine the total OPEB liability as of June 30, 2025, based on the following actuarial methods and assumptions:

	<u>Actuarial Assumptions</u>
Valuation Date	June 30, 2025
Measurement Date	June 30, 2025
Actuarial Cost Method	Entry-Age Normal Cost, Level Percent of Pay
Actuarial Assumptions:	
Discount Rate	5.20% as of June 30, 2025 3.93% as of June 30, 2024
Inflation	2.50%
Payroll Growth	3.00%
Mortality Rate	MacLeod Watts Scale 2022 applied generationally from 2015
Healthcare Trend Rates	6.5% grading down to 3.9% for years 2075 and thereafter

The discount rate was based on the Bond Buyer General Obligation 20-Bond Municipal Bond Index.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 13 OTHER POSTEMPLOYMENT BENEFITS (CONTINUED)

C. Changes in Total OPEB Liability

The changes in the total OPEB liability follows:

	Increase (Decrease)
	<u>Total OPEB Liability</u>
Balance - June 30, 2024 Measurement Date	\$ 4,190,598
Changes Recognized for the Measurement Period:	
Service Cost	334,778
Interest Cost	173,401
City Contributions	-
Changes in Assumptions	(417,634)
Plan Experience	-
Benefit Payments	(226,285)
Net Changes	<u>(135,740)</u>
Balance - June 30, 2025 Measurement Date	<u>\$ 4,054,858</u>

D. Sensitivity of the Total OPEB Liability to Changes in the Discount Rate and Healthcare Cost Trend Rates

The following presents the total OPEB liability of the City, as well as what the City's total OPEB liability would be if it were calculated using a discount rate that is one-percentage-point-lower (4.20%) or one-percentage-point-higher (6.20%) than the current discount rate:

	One Percent Decrease (4.20%)	Current Discount Rate (5.20%)	One Percent Increase (6.20%)
Total OPEB Liability	<u>\$ 4,379,831</u>	<u>\$ 4,054,858</u>	<u>\$ 3,756,491</u>

The following presents the total OPEB liability of the City, as well as what the City's total OPEB liability would be if it were calculated using healthcare cost trend rates that are one-percentage-point-lower or one-percentage-point-higher than the current healthcare cost trend rates:

	One Percent Decrease	Healthcare Cost Trend Rates	One Percent Increase
Total OPEB Liability	<u>\$ 3,658,198</u>	<u>\$ 4,054,858</u>	<u>\$ 4,519,369</u>

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 13 OTHER POSTEMPLOYMENT BENEFITS (CONTINUED)

E. OPEB Expenses and Deferred Outflows/Inflows of Resources Related to OPEB

For the year ended June 30, 2025, the City recognized OPEB expense of \$386,050. At June 30, 2025, the City reported deferred outflows and inflows of resources related to OPEB from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Changes in Assumptions	\$ 309,678	\$ 826,066
Difference Between Expected and Actual Experience	397,297	943,888
Total	<u>\$ 706,975</u>	<u>\$ 1,769,954</u>

Amounts reported as deferred outflows of resources and deferred inflows of resources related to OPEB will be recognized as part of OPEB expense as follows:

<u>Year Ending June 30,</u>	<u>Annual Amortization</u>
2026	\$ (122,129)
2027	(121,821)
2028	(112,336)
2029	(123,257)
2030	(155,865)
Thereafter	(427,571)
Total	<u>\$ (1,062,979)</u>

NOTE 14 HEALTH, GENERAL LIABILITY, AND WORKERS' COMPENSATION COVERAGE

A. Coverages

The City is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The City carries commercial insurance for employees' health. Settled claims resulting from these risks have not exceeded commercial insurance coverage in any of the past three fiscal years.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

**NOTE 14 HEALTH, GENERAL LIABILITY, AND WORKERS' COMPENSATION COVERAGE
(CONTINUED)**

A. Coverages (Continued)

Prior to January 2018, the City participated in Association of Bay Area Governments (ABAG) Plan Corporation, a nonprofit public benefit corporation established to provide liability insurance coverage, claims and risk management, and legal defense to its participating members. On January 16, 2018, ABAG Plan Corporation transitioned to the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA). PLAN JPA provides general liability coverage of \$5,000,000 above the City's deductible of \$25,000 per occurrence, and property damage insurance up to \$1,000,000. PLAN JPA is governed by a board consisting of representatives from member municipalities. The board controls the operations of PLAN JPA funding policies and approval of operating budgets, independent of any influence by member municipalities beyond their representation on the board.

Actual surpluses or losses are shared according to a formula developed from overall loss costs and spread to member entities on a percentage basis after a retrospective rating. During the fiscal year ended June 30, 2025, the City contributed \$1,879,367 for current year coverage.

Audited financial statements may be obtained from PLAN JPA, 1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833.

The Local Agency Workers' Compensation Excess Insurance Joint Powers Authority (LAWCX) covers workers' compensation up to statutory limits. The City has a deductible or uninsured liability of up to \$350,000 per claim. During the fiscal year ended June 30, 2025, the City contributed \$384,033 for current year coverage.

LAWCX's financial statements may be obtained from Bickmore & Associates, 6371 Auburn Boulevard, Citrus Heights, CA 95621.

B. Liability for Uninsured Claims

The City's liability for uninsured claims, including estimated claims incurred but not reported, was estimated by management based on prior years claims experience and was computed as follows as of June 30, 2025:

	Workers' Compensation	General Liability	Total
Balance - Beginning of Year	\$ 3,140,654	\$ 138,989	\$ 3,279,643
Liability for Current Year Claims and Change in Prior Year Claims Estimate	1,103,694	57,683	1,161,377
Claims Paid in Fiscal Year	<u>(452,348)</u>	<u>(57,683)</u>	<u>(510,031)</u>
Balance - End of Year	<u>\$ 3,792,000</u>	<u>\$ 138,989</u>	<u>\$ 3,930,989</u>
Claim Liabilities Due Within a Year	<u>\$ 738,000</u>	<u>\$ 79,461</u>	<u>\$ 817,461</u>

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 15 JOINT POWERS AUTHORITIES

The City participates in joint ventures discussed below through separate entities established under the Joint Exercise of Powers Act of the state of California. As separate legal entities, these entities exercise full powers and authorities within the scope of the related Joint Powers Agreements including the preparation of annual budgets, accountability for all funds, the power to make and execute contracts, and the right to sue and be sued. Each joint venture is governed by a board consisting of representatives from member municipalities. Each board controls the operations of the respective joint venture, including selection of management and approval of operating budgets, independent of any influence by member municipalities beyond their representation on that board. Obligations and liabilities of these joint ventures are not the City's responsibility, and the City does not have an equity interest in the assets of each joint venture except upon dissolution of the joint venture.

A. Solano Water Authority

Solano Water Authority was established to coordinate water procurement and use among the Cities and City of Solano.

Members share the Water Authority's expenses equally and each member has one representative on the commission that governs the Water Authority.

Audited financial statements may be obtained from the Solano Water Authority at 508 Elmira Road, Vacaville, California, 95687.

B. Solano Transportation Authority

Solano Transportation Authority (STA) was established to develop regional strategies and meet regional transit and paratransit needs and to cooperatively address Solano City transportation issues.

The City's payments to STA are in accordance with a formula under which each member entity pays a proportionate share of expenditures based on the entity's population.

Audited financial statements may be obtained from STA at One Harbor Center, Suite 130, Suisun City, California, 94585.

**CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025**

NOTE 16 OTHER COMMITMENTS AND CONTINGENT LIABILITIES

At June 30, 2025, the City had construction commitments outstanding of approximately \$3,368,733.

The City participates in several federal and state grant programs. These programs have been audited by the City's independent accountants in accordance with the provisions of the Federal Single Audit Act and applicable state requirements. No cost disallowances were proposed as a result of these audits. However, these programs are still subject to further examination by the grantors and the amount, if any, of expenditures which may be disallowed by the granting agencies cannot be determined at this time. The City expects such amounts, if any, to be immaterial.

The City is a defendant in a number of lawsuits that have arisen in the normal course of business, the outcome of which cannot be predicted with certainty. In the opinion of the City Attorney, these actions when finally adjudicated will not have a material adverse effect on the financial position of the City.

NOTE 17 MARINA

The Marina Fund continues to operate at a structural deficit supported by annual transfers from the General Fund, inclusive of cost for litigation.

NOTE 18 OTHER RELATED ORGANIZATIONS

The City Council of the City of Benicia appoints board members of the Benicia Housing Authority (the Authority). The Authority sets policy for, and administers, affordable housing programs within the City of Benicia. The City has related financial transactions with the Authority represented by loans receivable from the Authority in a total amount of \$1,400,000 as of June 30, 2025.

CITY OF BENICIA
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2025

NOTE 19 ACCOUNTING AND REPORTING CHANGES

The City's beginning net position or fund balance has been restated to reflect the cumulative effect of a change in accounting principle. A summary of the restatements as of June 30, 2025 is as follows:

Change in Accounting Principle

During the current year, the City recorded an adjustment to beginning net position for the implementation of GASB Statement No. 101, Compensated Absences. The effect of the implementation and adjustment to beginning net position is shown in the Change in Accounting Principle column of the table below.

Correction of an Error

During the current year, the City determined that it overstated a liability for self-insured dental benefits. Therefore, salaries and benefits liability was overstated by \$846,828 in the General Fund for the year ended June 30, 2024. The effect of the adjustment to beginning fund balance and net position is shown in the Correction of an Error column of the table below.

	June 30, 2024 As Previously Reported	Correction of an Error	Change in Accounting Principle	June 30, 2024 As Restated
<u>Government-Wide</u>				
Governmental Activities	\$ 99,505,178	\$ 846,828	\$ (1,855,323)	\$ 98,496,683
Business-Type Activities	119,766,280	-	(407,610)	119,358,670
Total Primary Government	<u>\$ 219,271,458</u>	<u>\$ 846,828</u>	<u>\$ (2,262,933)</u>	<u>\$ 217,855,353</u>
<u>Governmental Funds</u>				
General Fund	\$ 36,673,622	\$ 846,828	\$ -	\$ 37,520,450
Capital Projects Fund	9,384,901	-	-	9,384,901
Miscellaneous Grants Fund	459,608	-	-	459,608
Other Governmental Funds	9,630,897	-	-	9,630,897
Total Governmental Funds	<u>\$ 56,149,028</u>	<u>\$ 846,828</u>	<u>\$ -</u>	<u>\$ 56,995,856</u>
<u>Proprietary Funds</u>				
Major Enterprise Funds:				
Wastewater	\$ 67,965,718	\$ -	\$ (169,478)	\$ 67,796,240
Water	47,972,379	-	(238,132)	47,734,247
Benicia Marina	2,240,521	-	-	2,240,521
Internal Service Funds	14,189,060	-	(20,675)	14,168,385
Total Proprietary Funds	<u>\$ 132,367,678</u>	<u>\$ -</u>	<u>\$ (428,285)</u>	<u>\$ 131,939,393</u>

REQUIRED SUPPLEMENTARY INFORMATION

CITY OF BENICIA
SCHEDULE OF CHANGES IN THE NET PENSION LIABILITY AND RELATED RATIOS –
MISCELLANEOUS PLAN
AGENT MULTIPLE EMPLOYER DEFINED BENEFIT PLAN
LAST 10 YEARS

Measurement Date	Miscellaneous Plan									
	6/30/2015	6/30/2016	6/30/2017	6/30/2018	6/30/2019	6/30/2020	6/30/2021	6/30/2022	6/30/2023	6/30/2024
Total Pension Liability:										
Service Cost	\$ 1,796,349	\$ 1,854,712	\$ 2,010,679	\$ 1,983,062	\$ 2,148,479	\$ 2,127,510	\$ 2,131,448	\$ 2,356,466	\$ 2,476,991	\$ 2,669,914
Interest	6,996,796	7,247,791	7,444,918	7,687,745	8,162,592	8,520,158	8,921,555	9,107,797	9,617,096	10,156,091
Changes of Benefit	-	-	-	-	-	-	-	-	154,649	-
Changes of Assumptions	(1,732,356)	-	6,199,466	(630,927)	-	-	-	4,429,679	-	-
Differences Between Expected and Actual Experience	134,316	(1,170,364)	(1,341,389)	(473,543)	2,176,268	448,011	1,036,636	(1,906,499)	2,542,650	2,794,434
Benefit Payments, Including Refunds of Employee Contributions	(4,162,502)	(4,579,445)	(4,732,973)	(5,149,294)	(5,427,826)	(6,067,538)	(6,077,078)	(6,860,218)	(6,821,118)	(7,525,829)
Net Change in Total Pension Liability	3,032,603	3,352,694	9,580,701	3,417,043	7,059,513	5,028,141	6,012,561	7,127,225	7,970,268	8,094,610
Total Pension Liability - Beginning	94,242,496	97,275,099	100,627,793	110,208,494	113,625,537	120,685,050	125,713,191	131,725,752	138,852,977	146,823,245
Total Pension Liability - Ending (a)	97,275,099	100,627,793	110,208,494	113,625,537	120,685,050	125,713,191	131,725,752	138,852,977	146,823,245	154,917,855
Plan Fiduciary Net Position:										
Contributions - Employer	1,878,933	2,135,425	2,279,273	2,589,748	2,875,546	3,335,224	3,626,282	3,997,842	4,514,263	4,605,943
Contributions - Employee	787,294	790,781	780,488	879,668	885,427	905,566	887,531	947,755	1,028,157	1,277,790
Net Investment Income	1,692,887	405,222	8,288,537	6,891,958	5,664,772	4,496,052	20,966,273	(8,462,558)	6,315,791	10,264,415
Benefit Payments, Including Refunds of Employee Contributions	(4,162,502)	(4,579,445)	(4,732,973)	(5,149,294)	(5,427,826)	(6,067,538)	(6,077,078)	(6,860,218)	(6,821,118)	(7,525,829)
Plan to Plan Resource Movement	160	-	-	(200)	-	-	-	-	-	-
Administrative Expense	(85,845)	(46,468)	(110,660)	(126,930)	(61,585)	(127,211)	(92,680)	(69,824)	(74,742)	(76,744)
Other Miscellaneous (Expense) Income	-	-	-	(241,043)	200	-	-	-	-	-
Net Change in Plan Fiduciary Net Position	110,927	(1,294,485)	6,504,665	4,843,907	3,936,534	2,542,093	19,310,328	(10,447,003)	4,962,351	8,545,575
Plan Fiduciary Net Position - Beginning	76,134,493	76,245,420	74,950,935	81,455,600	86,299,507	90,236,041	92,778,134	112,088,462	101,641,459	106,603,810
Plan Fiduciary Net Position - Ending (b)	76,245,420	74,950,935	81,455,600	86,299,507	90,236,041	92,778,134	112,088,462	101,641,459	106,603,810	115,149,385
Net Pension Liability - Ending (a)-(b)	<u>\$ 21,029,679</u>	<u>\$ 25,676,858</u>	<u>\$ 28,752,894</u>	<u>\$ 27,326,030</u>	<u>\$ 30,449,009</u>	<u>\$ 32,935,057</u>	<u>\$ 19,637,290</u>	<u>\$ 37,211,518</u>	<u>\$ 40,219,435</u>	<u>\$ 39,768,470</u>
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	78.38%	74.48%	73.91%	75.95%	74.77%	73.80%	85.09%	73.20%	72.61%	74.33%
Covered Payroll	\$ 10,160,916	\$ 10,571,168	\$ 10,854,456	\$ 10,599,506	\$ 11,768,618	\$ 12,108,765	\$ 12,399,346	\$ 12,541,067	\$ 13,331,492	\$ 13,731,437
Net Pension Liability as a Percentage of Covered Payroll	206.97%	242.90%	264.89%	257.80%	258.73%	271.99%	158.37%	296.72%	301.69%	289.62%

Notes to Schedule:

Benefit Changes: The figures above generally include any liability impact that may have resulted from voluntary benefit changes that occurred on or before the Measurement Date. However, offers of Two Years Additional Service Credit (a.k.a. Golden Handshakes) that occurred after the Valuation Date are not included in the figures above, unless the liability impact is deemed to be material by the plan actuary.

Changes in Assumptions: There were no assumption changes in 2023 or 2024. Effective with the June 30, 2021, valuation date (June 30, 2022, measurement date), the accounting discount rate was reduced from 7.15% to 6.90%. In determining the long-term expected rate of return, CalPERS took into account long-term market return expectations as well as the expected pension fund cash flows. In addition, demographic assumptions and the price inflation assumption were changed in accordance with the 2021 CalPERS Experience Study and Review of Actuarial Assumptions. The accounting discount rate was 7.15% for measurement dates June 30, 2017, through June 30, 2021, and 7.65% for measurement dates June 30, 2015, through June 30, 2016.

**CITY OF BENICIA
SCHEDULE OF CONTRIBUTIONS –
MISCELLANEOUS PLAN
AGENT MULTIPLE EMPLOYER DEFINED BENEFIT PLAN
LAST 10 YEARS**

Fiscal Year Ended June 30,	Miscellaneous Plan									
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Actuarially Determined Contribution	\$ 2,135,425	\$ 2,279,273	\$ 2,589,748	\$ 2,875,546	\$ 3,335,224	\$ 3,626,282	\$ 3,997,842	\$ 4,514,263	\$ 4,602,955	\$ 4,605,943
Contributions in Relation to the Actuarially Determined Contributions	(2,135,425)	(2,279,273)	(2,589,748)	(2,875,546)	(3,335,224)	(3,626,282)	(3,997,842)	(4,514,263)	(4,602,955)	(4,605,943)
Contribution Deficiency (Excess)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Covered Payroll	\$ 10,571,168	\$ 10,854,456	\$ 10,599,506	\$ 11,768,618	\$ 12,108,765	\$ 12,399,346	\$ 12,541,067	\$ 13,331,492	\$ 13,731,437	\$ 14,694,077
Contributions as a Percentage of Covered Payroll	20.20%	21.00%	24.43%	24.43%	27.54%	29.25%	31.88%	33.86%	33.52%	31.35%

Notes to Schedule:

Valuation Date	6/30/2015	6/30/2016	6/30/2017	6/30/2018	6/30/2019	6/30/2020	6/30/2021	6/30/2022	6/30/2023	6/30/2024

Methods and assumptions used to determine contribution rates:

Actuarial Cost Method	Entry Age Normal
Amortization Method	Level Percentage of Payroll, Closed
Remaining Amortization Period	15 Years
Asset Valuation Method	5-Year Smoothed Market
Inflation	2.3%
Salary Increases	Varies by Entry Age and Service
Investment Rate of Return	6.80% Net of Pension Plan Investment and Administrative Expenses; includes Inflation.
Retirement Age	The probabilities of retirement are based on the 2021 CalPERS Experience Study for the period from 1997 to 2015.
Mortality	The probabilities of mortality are based on the 2021 CalPERS Experience Study and Review of Actuarial Assumptions.
	Mortality rates incorporate full generational mortality improvement using 80% of Scale MP-2020 published by the Society of Actuaries.

CITY OF BENICIA
SCHEDULE OF THE CITY'S PROPORTIONATE SHARE OF THE NET PENSION LIABILITY –
SAFETY (POLICE AND FIRE) PLAN
COST SHARING MULTIPLE EMPLOYER DEFINED BENEFIT PLAN
LAST 10 YEARS

Measurement Date	Safety Plan									
	6/30/2015	6/30/2016	6/30/2017	6/30/2018	6/30/2019	6/30/2020	6/30/2021	6/30/2022	6/30/2023	6/30/2024
Plan's Proportionate of the Net Pension Liability/Asset	0.492%	0.608%	0.363%	0.379%	0.384%	0.393%	0.819%	0.715%	0.703%	0.695%
Plan's Proportionate Share of the Net Pension Liability/(Asset)	\$ 20,285,275	\$ 31,510,451	\$ 35,981,127	\$ 36,543,368	\$ 39,363,497	\$ 42,773,532	\$ 28,736,122	\$ 49,114,191	\$ 52,571,624	\$ 51,956,718
Plan's Covered Payroll	\$ 6,740,500	\$ 6,095,403	\$ 6,644,534	\$ 7,657,943	\$ 8,507,451	\$ 7,757,336	\$ 7,456,413	\$ 7,580,315	\$ 7,490,022	\$ 7,714,723
Plan's Proportionate Share of the Net Pension Liability/(Asset) as a Percentage of it's Covered Payroll	301%	517%	542%	477%	463%	551%	385%	648%	702%	673%

**CITY OF BENICIA
SCHEDULE OF CONTRIBUTIONS –
SAFETY (POLICE AND FIRE) PLAN
COST SHARING MULTIPLE EMPLOYER DEFINED BENEFIT PLAN
LAST 10 YEARS**

Fiscal Year Ended June 30,	Safety Plan									
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Actuarially Determined Contribution	\$ 3,126,216	\$ 2,892,211	\$ 2,167,184	\$ 2,995,117	\$ 3,532,269	\$ 4,138,208	\$ 5,648,278	\$ 5,108,738	\$ 5,441,107	\$ 5,441,107
Contributions in Relation to the Actuarially Determined Contributions	<u>(847,816)</u>	<u>(3,232,727)</u>	<u>(2,167,184)</u>	<u>(2,995,117)</u>	<u>(3,532,269)</u>	<u>(4,138,208)</u>	<u>(5,648,278)</u>	<u>(5,108,738)</u>	<u>(5,441,107)</u>	<u>(5,441,107)</u>
Contribution Deficiency (Excess)	<u>\$ 2,278,400</u>	<u>\$ (340,516)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Covered Payroll	\$ 6,095,403	\$ 6,644,534	\$ 7,657,943	\$ 8,507,451	\$ 7,757,336	\$ 7,456,413	\$ 7,580,315	\$ 7,490,022	\$ 7,714,723	\$ 7,946,165
Contributions as a Percentage of Covered Payroll	51.29%	43.53%	28.30%	35.21%	45.53%	55.50%	74.51%	68.21%	70.53%	68.47%

CITY OF BENICIA
SCHEDULE OF CHANGES IN THE TOTAL OPEB LIABILITY AND RELATED RATIOS
RETIREE MEDICAL BENEFITS (OPEB) PLAN
SINGLE EMPLOYER DEFINED BENEFIT PLAN
LAST 10 YEARS*

Measurement Date	6/30/2018	6/30/2019	6/30/2020	6/30/2021	6/30/2022	6/30/2023	6/30/2024	6/30/2025
Total OPEB Liability (1):								
Service Cost	\$ 260,255	\$ 253,640	\$ 278,328	\$ 382,152	\$ 397,007	\$ 285,613	\$ 288,715	\$ 334,778
Interest	133,803	149,532	145,359	119,561	122,544	138,935	149,464	173,401
Differences Between Expected and Actual Experience	-	-	384,750	-	(1,539,400)	-	277,891	-
Changes of Assumptions	(100,982)	112,234	607,347	20,854	(363,319)	(33,385)	(216,341)	(417,634)
Benefit Payments	(224,496)	(241,333)	(244,297)	(257,489)	(290,631)	(217,504)	(230,655)	(226,285)
Net Change in Total OPEB Liability	68,580	274,073	1,171,487	265,078	(1,673,799)	173,659	269,074	(135,740)
Total OPEB Liability - Beginning	3,642,446	3,711,026	3,985,099	5,156,586	5,421,664	3,747,865	3,921,524	4,190,598
Total OPEB Liability - Ending	<u>\$ 3,711,026</u>	<u>\$ 3,985,099</u>	<u>\$ 5,156,586</u>	<u>\$ 5,421,664</u>	<u>\$ 3,747,865</u>	<u>\$ 3,921,524</u>	<u>\$ 4,190,598</u>	<u>\$ 4,054,858</u>
Covered-Employee Payroll	\$ 20,697,142	\$ 22,908,618	\$ 20,418,734	\$ 25,379,746	\$ 26,869,559	\$ 28,151,881	\$ 30,780,901	\$ 31,584,730
Total OPEB Liability as a Percentage of Covered-Employee Payroll	17.93%	17.40%	25.25%	21.36%	13.95%	13.93%	13.61%	12.84%

* Fiscal year 2018 was the first year of implementation.

**CITY OF BENICIA
SCHEDULE OF CONTRIBUTIONS
RETIREE MEDICAL BENEFITS (OPEB) PLAN
SINGLE EMPLOYER DEFINED BENEFIT PLAN
LAST 10 YEARS***

Fiscal Year Ended June 30,	2018	2019	2020	2021	2022	2023	2024	2025
	Implicit	Implicit	Implicit	Implicit	Implicit	Implicit	Implicit	Implicit
Actuarially Required Contribution	\$ 224,496	\$ 241,333	\$ 244,297	\$ 257,489	\$ 290,631	\$ 217,504	\$ 230,655	\$ 226,285
Contributions in Relation to the Actuarially Required Contributions	<u>(224,496)</u>	<u>(241,333)</u>	<u>(244,297)</u>	<u>(257,489)</u>	<u>(290,631)</u>	<u>(217,504)</u>	<u>(230,655)</u>	<u>(226,285)</u>
Contribution Deficiency (Excess)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Covered-Employee Payroll	\$ 20,697,142	\$ 22,908,618	\$ 20,418,734	\$ 25,379,746	\$ 26,869,559	\$ 28,151,881	\$ 30,780,901	\$ 31,584,730
Contributions as a Percentage of Covered-Employee Payroll	1.08%	1.05%	0.00%	0.00%	1.08%	0.77%	0.75%	0.72%

Notes to Schedule:

Methods and assumptions used to determine contribution rates:

Valuation Date	June 30, 2024
Actuarial Assumptions:	
Discount Rate	5.20% as of June 30, 2025 3.93% as of June 30, 2024
Inflation	2.50%
Salary Increase	3.00%
Mortality Rate	MacLeod Watts Scale 2022 applied generationally from 2017.
Healthcare Trend Rate	6.5% grading down to 3.9% for years 2075 and thereafter.

* Fiscal year 2018 was the first year of implementation.

SUPPLEMENTARY INFORMATION

**CITY OF BENICIA
CAPITAL PROJECTS FUND
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Budgeted Amounts		Actual	Variance with
	Original	Final	Amounts	Final Budget Positive (Negative)
REVENUES				
Use of Money and Property	\$ -	\$ -	\$ 481,763	\$ 481,763
Intergovernmental Revenues	221,000	221,000	193,944	(27,056)
Other Revenue	-	-	2,127,600	2,127,600
Total Revenues	221,000	221,000	2,803,307	2,582,307
EXPENDITURES				
Capital Outlay	5,427,958	5,427,958	2,767,167	2,660,791
Debt Service:				
Total Expenditures	5,427,958	5,427,958	2,767,167	2,660,791
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(5,206,958)	(5,206,958)	36,140	5,243,098
OTHER FINANCING SOURCES (USES)				
Transfers In	1,230,000	1,230,000	1,030,000	(200,000)
Transfer Out	(83,150)	(83,150)	(84,857)	(1,707)
Total Other Financing Sources (Uses)	1,146,850	1,146,850	945,143	(201,707)
NET CHANGE IN FUND BALANCES	<u>\$ (4,060,108)</u>	<u>\$ (4,060,108)</u>	981,283	<u>\$ 5,041,391</u>
Fund Balances - Beginning of Year			9,384,901	
FUND BALANCES - END OF YEAR			<u>\$ 10,366,184</u>	

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS (CONTINUED)
JUNE 30, 2025**

SPECIAL REVENUE FUNDS

Gas Tax

Accounts for monies received and expended from state gas tax allocation to cities.

Streets and Transportation Fund (Intermodal Transportation Fund)

Accounts for revenues collected for various intermodal transportation projects. Sources of revenue include transfers provided by the General Fund, debt proceeds, investment earnings, and grant funding.

Landscaping and Lighting Districts: Residential, Fleetside, Columbus Parkway, East 2nd Street, and Goodyear Road

Accounts for monies received from property owners and allocated for the maintenance of landscaping of paths in walkways and lighting of streetlights within the bounds of the specified districts.

Community Development Block Grant

Accounts for moneys received and expended by the City as a participant in the Federal Community Development Block Grant program.

Community Services Program

Accounts for moneys received from developers, grants, and cemetery fees for expenditures to maintain the City Cemetery, and also local grant money for a citywide tree maintenance program.

Library Programs

Accounts for donations and grant funds intended to promote literacy in the City.

County Sales Tax Measure

Accounts for funds from Solano City Measure B sales tax to be used for enhancement of library services.

Southern Pacific Depot

Accounts for community donations and rent receipts expended for the Southern Pacific Depot.

Public Safety Grants

Accounts for various public safety grant revenues and their expenditures.

Human Services

Accounts for endowment and restricted donations to support resident assistance programs within the City.

Developer Deposits

Accounts for developer deposits, fees, and related expenditures incurred for specific projects.

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS (CONTINUED)
JUNE 30, 2025**

SPECIAL REVENUE FUNDS (CONTINUED)

Tourtelot Mitigation

Accounts for the cost of maintaining open space in the project area. Sources of revenue include fees paid by the developer and investment earnings.

FEMA

Accounts for the cost of disasters. Sources of revenue include support from the Federal Emergency Management Agency.

Measure F (Streets)

Accounts for the ½ cent sales tax for the specific purpose of repairing, maintaining, and improving Benicia's streets, roads, potholes, and related sidewalks and storm drains, never to be used for other municipal services, with a citizen oversight committee and annual audits until ended by the voters.

Valero GNSC

Accounts for the Valero settlement monies to be used for various water and energy conservation projects.

Traffic Mitigation

Accounts for revenues collected for the purpose of installation of new traffic signals and modification of streets for standardization of intersections. Sources of revenue include investment earnings, state grants, development fees, and interfund transfers.

Park Dedication

Accounts for revenues collected for the construction and capital improvements of the City's parks, trails, and open space lands. Sources of revenue include investment earnings, Parkland dedication fees, local, and state grants.

DEBT SERVICE FUNDS

Retirement Stability Fund

Accounts for the accumulation and allocation of costs for the City's 2006 Pension Obligation Bond debt service.

General Obligation Bonds

Accounts for property tax levies for the payment of voter-approved debt principal and interest of the General Obligation Bonds. On June 7, 2012, the City issued General Obligation Refunding Bonds, Series 2012, in the amount of \$4,270,000, bearing interest of 1.25%. The proceeds were used to refund the City's outstanding 1997 General Obligation Wastewater Bonds, Series A and B.

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS
COMBINING BALANCE SHEET
JUNE 30, 2025**

	Special Revenue Funds					
	Gas Tax Special Revenue Fund	Streets and Transportation (Intermodal Transportation) Special Revenue Fund	Residential Landscaping and Lighting	Fleetside Landscaping and Lighting	Columbus Parkway Landscaping and Lighting	East 2nd Street Landscaping and Lighting
ASSETS						
Cash and Investments Available for City Operations	\$ 4,703,628	\$ -	\$ 549,114	\$ 347,486	\$ 141,561	\$ 67,648
Cash with Fiscal Agents	-	-	-	-	-	-
Accounts Receivable	127,132	-	-	-	-	-
Total Assets	<u>\$ 4,830,760</u>	<u>\$ -</u>	<u>\$ 549,114</u>	<u>\$ 347,486</u>	<u>\$ 141,561</u>	<u>\$ 67,648</u>
LIABILITIES, DEFERRED INFLOWS OF RESOURCES, AND FUND BALANCES						
LIABILITIES						
Accounts Payable	\$ 170,173	\$ 26,684	\$ 38,474	\$ 2,644	\$ 586	\$ 3,509
Accrued Salaries and Benefits	1,072	-	4,058	838	287	395
Accrued Expenses	112	-	3,139	1,165	1,170	-
Customer Deposits	-	-	-	-	-	-
Unearned Revenue	-	-	-	-	-	-
Due to Other Funds	-	427,291	-	-	-	-
Total Liabilities	<u>171,357</u>	<u>453,975</u>	<u>45,671</u>	<u>4,647</u>	<u>2,043</u>	<u>3,904</u>
FUND BALANCES						
Restricted	4,659,403	-	503,443	342,839	139,518	63,744
Unassigned	-	(453,975)	-	-	-	-
Total Fund Balances	<u>4,659,403</u>	<u>(453,975)</u>	<u>503,443</u>	<u>342,839</u>	<u>139,518</u>	<u>63,744</u>
Total Liabilities, Deferred Inflows of Resources, and Fund Balances	<u>\$ 4,830,760</u>	<u>\$ -</u>	<u>\$ 549,114</u>	<u>\$ 347,486</u>	<u>\$ 141,561</u>	<u>\$ 67,648</u>

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS
COMBINING BALANCE SHEET (CONTINUED)
JUNE 30, 2025**

	Special Revenue Funds					
	Goodyear Road Landscaping and Lighting	Community Development Block Grant	Community Services Program	Library Programs	County Sales Tax Measure	Southern Pacific Depot
ASSETS						
Cash and Investments Available for City Operations	\$ 21,374	\$ 144,696	\$ 363,796	\$ 98,966	\$ 182,273	\$ 175,608
Cash with Fiscal Agents	-	-	-	-	-	-
Accounts Receivable	-	-	-	59,000	-	1,754
Total Assets	<u>\$ 21,374</u>	<u>\$ 144,696</u>	<u>\$ 363,796</u>	<u>\$ 157,966</u>	<u>\$ 182,273</u>	<u>\$ 177,362</u>
LIABILITIES, DEFERRED INFLOWS OF RESOURCES, AND FUND BALANCES						
LIABILITIES						
Accounts Payable	\$ 762	\$ -	\$ -	\$ 11,132	\$ -	\$ -
Accrued Salaries and Benefits	110	-	-	2,352	-	-
Accrued Expenses	198	-	-	1,816	-	-
Customer Deposits	-	-	-	-	-	-
Unearned Revenue	-	-	-	76,174	-	-
Due to Other Funds	-	-	-	-	-	-
Total Liabilities	<u>1,070</u>	<u>-</u>	<u>-</u>	<u>91,474</u>	<u>-</u>	<u>-</u>
FUND BALANCES						
Restricted	20,304	144,696	363,796	66,492	182,273	177,362
Unassigned	-	-	-	-	-	-
Total Fund Balances	<u>20,304</u>	<u>144,696</u>	<u>363,796</u>	<u>66,492</u>	<u>182,273</u>	<u>177,362</u>
Total Liabilities, Deferred Inflows of Resources, and Fund Balances	<u>\$ 21,374</u>	<u>\$ 144,696</u>	<u>\$ 363,796</u>	<u>\$ 157,966</u>	<u>\$ 182,273</u>	<u>\$ 177,362</u>

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS
COMBINING BALANCE SHEET (CONTINUED)
JUNE 30, 2025**

	Special Revenue Funds					
	Public Safety Grants	Human Services	Developer Deposits	Tourtlot Mitigation	FEMA	Measure F (Streets)
ASSETS						
Cash and Investments Available for City Operations	\$ 1,801,962	\$ 12,961	\$ 982,123	\$ 491,549	\$ 54,664	\$ 216,048
Cash with Fiscal Agents	-	-	-	-	-	-
Accounts Receivable	-	-	1,778	-	-	647,778
Total Assets	<u>\$ 1,801,962</u>	<u>\$ 12,961</u>	<u>\$ 983,901</u>	<u>\$ 491,549</u>	<u>\$ 54,664</u>	<u>\$ 863,826</u>
LIABILITIES, DEFERRED INFLOWS OF RESOURCES, AND FUND BALANCES						
LIABILITIES						
Accounts Payable	\$ 72,728	\$ -	\$ 56,905	\$ -	\$ -	\$ -
Accrued Salaries and Benefits	3,334	-	-	-	-	-
Accrued Expenses	938	-	(72)	-	-	-
Customer Deposits	81,413	-	251,307	-	-	-
Unearned Revenue	18,603	-	-	-	-	-
Due to Other Funds	-	-	-	-	-	-
Total Liabilities	<u>177,016</u>	<u>-</u>	<u>308,140</u>	<u>-</u>	<u>-</u>	<u>-</u>
FUND BALANCES						
Restricted	1,624,946	12,961	675,761	491,549	54,664	863,826
Unassigned	-	-	-	-	-	-
Total Fund Balances	<u>1,624,946</u>	<u>12,961</u>	<u>675,761</u>	<u>491,549</u>	<u>54,664</u>	<u>863,826</u>
Total Liabilities, Deferred Inflows of Resources, and Fund Balances	<u>\$ 1,801,962</u>	<u>\$ 12,961</u>	<u>\$ 983,901</u>	<u>\$ 491,549</u>	<u>\$ 54,664</u>	<u>\$ 863,826</u>

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS
COMBINING BALANCE SHEET (CONTINUED)
JUNE 30, 2025**

	Special Revenue Funds			Debt Service Funds		
	Valero GNSC	Traffic Mitigation	Park Dedication	Retirement Stability	General Obligation Bonds Debt Service Fund	Total Nonmajor Governmental Funds
ASSETS						
Cash and Investments Available for City Operations	\$ 278,807	\$ 85,670	\$ 308,444	\$ 1,285,030	\$ 223,152	\$ 12,536,560
Cash with Fiscal Agents	-	-	-	84,390	-	84,390
Accounts Receivable	-	-	-	-	-	837,442
Total Assets	<u>\$ 278,807</u>	<u>\$ 85,670</u>	<u>\$ 308,444</u>	<u>\$ 1,369,420</u>	<u>\$ 223,152</u>	<u>\$ 13,458,392</u>
LIABILITIES, DEFERRED INFLOWS OF RESOURCES, AND FUND BALANCES						
LIABILITIES						
Accounts Payable	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 383,597
Accrued Salaries and Benefits	-	-	-	-	-	12,446
Accrued Expenses	-	-	-	-	-	8,466
Customer Deposits	-	-	-	-	-	332,720
Unearned Revenue	-	-	-	-	-	94,777
Due to Other Funds	-	-	-	-	-	427,291
Total Liabilities	-	-	-	-	-	1,259,297
FUND BALANCES						
Restricted	278,807	85,670	308,444	1,369,420	223,152	12,653,070
Unassigned	-	-	-	-	-	(453,975)
Total Fund Balances	<u>278,807</u>	<u>85,670</u>	<u>308,444</u>	<u>1,369,420</u>	<u>223,152</u>	<u>12,199,095</u>
Total Liabilities, Deferred Inflows of Resources, and Fund Balances	<u>\$ 278,807</u>	<u>\$ 85,670</u>	<u>\$ 308,444</u>	<u>\$ 1,369,420</u>	<u>\$ 223,152</u>	<u>\$ 13,458,392</u>

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS
COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
YEAR ENDED JUNE 30, 2025**

	Special Revenue Funds					
	Gas Tax Special Revenue Fund	Streets and Transportation (Intermodal Transportation) Special Revenue Fund	Residential Landscaping and Lighting	Fleetside Landscaping and Lighting	Columbus Parkway Landscaping and Lighting	East 2nd Street Landscaping and Lighting
REVENUES						
Sales Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Use of Money and Property	204,498	-	33,421	16,477	8,954	4,992
Intergovernmental Revenues	1,504,416	-	-	-	-	-
Current Service Charges	-	199,424	299,736	79,937	15,792	27,987
Community Donations	-	-	-	-	-	-
Other	10,314	-	-	-	-	-
Total Revenues	1,719,228	199,424	333,157	96,414	24,746	32,979
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Parks and Community Services	-	-	533,960	50,695	78,506	85,180
Community Development	576,741	-	-	-	-	-
Library	-	-	-	-	-	-
Capital Outlay	184,160	53,123	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Total Expenditures	760,901	53,123	533,960	50,695	78,506	85,180
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	958,327	146,301	(200,803)	45,719	(53,760)	(52,201)
OTHER FINANCING SOURCES (USES)						
Transfers In	500,000	-	-	-	-	-
Transfer Out	(912)	-	(4,512)	(432)	(168)	(216)
Total Other Financing Sources (Uses)	499,088	-	(4,512)	(432)	(168)	(216)
NET CHANGE IN FUND BALANCES	1,457,415	146,301	(205,315)	45,287	(53,928)	(52,417)
Fund Balances - Beginning of Year	3,201,988	(600,276)	708,758	297,552	193,446	116,161
FUND BALANCES - END OF YEAR	\$ 4,659,403	\$ (453,975)	\$ 503,443	\$ 342,839	\$ 139,518	\$ 63,744

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS
COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
YEAR ENDED JUNE 30, 2025**

	Special Revenue Funds					
	Goodyear Road Landscaping and Lighting	Community Development Block Grant	Community Services Program	Library Programs	County Sales Tax Measure	Southern Pacific Depot
REVENUES						
Sales Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Use of Money and Property	1,145	94,078	19,746	6,128	9,098	12,913
Intergovernmental Revenues	-	-	-	60,374	-	-
Current Service Charges	3,998	-	77,930	438	-	-
Community Donations	-	-	-	64,802	-	-
Other	-	46,573	-	-	-	-
Total Revenues	5,143	140,651	97,676	131,742	9,098	12,913
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Parks and Community Services	9,240	-	-	-	-	-
Community Development	11	-	99,544	-	-	-
Library	-	-	-	182,089	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Total Expenditures	9,251	-	99,544	182,089	-	-
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(4,108)	140,651	(1,868)	(50,347)	9,098	12,913
OTHER FINANCING SOURCES (USES)						
Transfers In	-	-	-	-	-	-
Transfer Out	(156)	-	-	-	-	-
Total Other Financing Sources (Uses)	(156)	-	-	-	-	-
NET CHANGE IN FUND BALANCES	(4,264)	140,651	(1,868)	(50,347)	9,098	12,913
Fund Balances - Beginning of Year	24,568	4,045	365,664	116,839	173,175	164,449
FUND BALANCES - END OF YEAR	\$ 20,304	\$ 144,696	\$ 363,796	\$ 66,492	\$ 182,273	\$ 177,362

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS
COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
YEAR ENDED JUNE 30, 2025**

	Special Revenue Funds					
	Public Safety Grants	Human Services	Developer Deposits	Tourtletot Mitigation	FEMA	Measure F (Streets)
REVENUES						
Sales Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 860,489
Use of Money and Property	99,009	1,373	47,062	24,562	2,729	3,337
Intergovernmental Revenues	272,967	-	-	-	-	-
Current Service Charges	-	-	180	-	-	-
Community Donations	1,376	-	-	-	-	-
Other	-	-	7,578	-	-	-
Total Revenues	373,352	1,373	54,820	24,562	2,729	863,826
EXPENDITURES						
Current:						
Administration	-	-	-	4,374	-	-
Public Safety - Police	339,330	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Library	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	33,022	-	-	-
Total Expenditures	339,330	-	33,022	4,374	-	-
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	34,022	1,373	21,798	20,188	2,729	863,826
OTHER FINANCING SOURCES (USES)						
Transfers In	121,000	-	-	-	-	-
Transfer Out	(1,620)	(124,411)	-	-	-	-
Total Other Financing Sources (Uses)	119,380	(124,411)	-	-	-	-
NET CHANGE IN FUND BALANCES	153,402	(123,038)	21,798	20,188	2,729	863,826
Fund Balances - Beginning of Year	1,471,544	135,999	653,963	471,361	51,935	-
FUND BALANCES - END OF YEAR	<u>\$ 1,624,946</u>	<u>\$ 12,961</u>	<u>\$ 675,761</u>	<u>\$ 491,549</u>	<u>\$ 54,664</u>	<u>\$ 863,826</u>

**CITY OF BENICIA
NONMAJOR GOVERNMENTAL FUNDS
COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
YEAR ENDED JUNE 30, 2025**

	Special Revenue Funds				Debt Service Funds	
	Valero GNSC	Traffic Mitigation	Park Dedication	Retirement Stability	General Obligation Bonds Debt Service Fund	Total Nonmajor Governmental Funds
REVENUES						
Sales Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 860,489
Use of Money and Property	9,814	1,924	15,059	76,341	3,487	696,147
Intergovernmental Revenues	-	-	-	-	-	1,837,757
Current Service Charges	-	40,809	11,280	-	-	757,511
Community Donations	-	-	-	-	-	66,178
Other	-	-	-	-	-	64,465
Total Revenues	9,814	42,733	26,339	76,341	3,487	4,282,547
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	4,374
Public Safety - Police	-	-	-	-	-	339,330
Parks and Community Services	-	-	-	-	-	757,581
Community Development	-	32,539	-	-	-	708,835
Library	-	3,142	-	-	-	185,231
Capital Outlay	-	9,212	-	-	-	246,495
Debt Service:						
Principal	-	-	-	455,000	-	455,000
Interest and Fiscal Charges	-	-	-	221,196	-	254,218
Total Expenditures	-	44,893	-	676,196	-	2,951,064
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	9,814	(2,160)	26,339	(599,855)	3,487	1,331,483
OTHER FINANCING SOURCES (USES)						
Transfers In	-	72,650	134	676,524	-	1,370,308
Transfer Out	-	(1,032)	(134)	-	-	(133,593)
Total Other Financing Sources (Uses)	-	71,618	-	676,524	-	1,236,715
NET CHANGE IN FUND BALANCES	9,814	69,458	26,339	76,669	3,487	2,568,198
Fund Balances - Beginning of Year	268,993	16,212	282,105	1,292,751	219,665	9,630,897
FUND BALANCES - END OF YEAR	<u>\$ 278,807</u>	<u>\$ 85,670</u>	<u>\$ 308,444</u>	<u>\$ 1,369,420</u>	<u>\$ 223,152</u>	<u>\$ 12,199,095</u>

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Gas Tax Special Revenue Fund			Streets and Transportation (Intermodal Transportation) Special Revenue Fund		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	204,498	204,498	800	-	(800)
Intergovernmental Revenues	1,501,993	1,504,416	2,423	228,000	-	(228,000)
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	-	-	-	380,000	199,424	(180,576)
Community Donations	-	-	-	-	-	-
Other	-	10,314	10,314	-	-	-
Total Revenues	1,501,993	1,719,228	217,235	608,800	199,424	(409,376)
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Public Works	-	-	-	150,000	-	150,000
Community Development	999,955	576,741	423,214	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	1,044,200	184,160	860,040	1,257,231	53,123	1,204,108
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	2,044,155	760,901	1,283,254	1,407,231	53,123	1,354,108
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(542,162)	958,327	1,500,489	(798,431)	146,301	944,732
OTHER FINANCING SOURCES (USES)						
Transfers In	500,000	500,000	-	-	-	-
Transfer Out	-	(912)	(912)	(200,000)	-	200,000
Total Other Financing Sources (Uses)	500,000	499,088	(912)	(200,000)	-	200,000
NET CHANGE IN FUND BALANCES	<u>\$ (42,162)</u>	<u>1,457,415</u>	<u>\$ 1,499,577</u>	<u>\$ (998,431)</u>	<u>146,301</u>	<u>\$ 1,144,732</u>
Fund Balances - Beginning of Year		3,201,988			(600,276)	
FUND BALANCES - END OF YEAR		<u>\$ 4,659,403</u>			<u>\$ (453,975)</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Residential Landscaping and Lighting			Fleetside Landscaping and Lighting		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	33,421	33,421	-	16,477	16,477
Intergovernmental Revenues	-	-	-	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	300,000	299,736	(264)	78,000	79,937	1,937
Community Donations	-	-	-	-	-	-
Other	-	-	-	-	-	-
Total Revenues	300,000	333,157	33,157	78,000	96,414	18,414
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	898,848	533,960	364,888	321,630	50,695	270,935
Public Works	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	898,848	533,960	364,888	321,630	50,695	270,935
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(598,848)	(200,803)	398,045	(243,630)	45,719	289,349
OTHER FINANCING SOURCES (USES)						
Transfers In	-	-	-	-	-	-
Transfer Out	-	(4,512)	(4,512)	-	(432)	(432)
Total Other Financing Sources (Uses)	-	(4,512)	(4,512)	-	(432)	(432)
NET CHANGE IN FUND BALANCES	<u>\$ (598,848)</u>	<u>(205,315)</u>	<u>\$ 393,533</u>	<u>\$ (243,630)</u>	<u>45,287</u>	<u>\$ 288,917</u>
Fund Balances - Beginning of Year		708,758			297,552	
FUND BALANCES - END OF YEAR		<u>\$ 503,443</u>			<u>\$ 342,839</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Columbus Parkway Landscaping and Lighting			East 2nd Street Landscaping and Lighting		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	8,954	8,954	-	4,992	4,992
Intergovernmental Revenues	-	-	-	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	15,800	15,792	(8)	28,000	27,987	(13)
Community Donations	-	-	-	-	-	-
Other	-	-	-	-	-	-
Total Revenues	15,800	24,746	8,946	28,000	32,979	4,979
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	185,765	78,506	107,259	132,764	85,180	47,584
Public Works	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	185,765	78,506	107,259	132,764	85,180	47,584
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(169,965)	(53,760)	116,205	(104,764)	(52,201)	52,563
OTHER FINANCING SOURCES (USES)						
Transfers In	-	-	-	-	-	-
Transfer Out	-	(168)	(168)	-	(216)	(216)
Total Other Financing Sources (Uses)	-	(168)	(168)	-	(216)	(216)
NET CHANGE IN FUND BALANCES	<u>\$ (169,965)</u>	<u>(53,928)</u>	<u>\$ 116,037</u>	<u>\$ (104,764)</u>	<u>(52,417)</u>	<u>\$ 52,347</u>
Fund Balances - Beginning of Year		193,446			116,161	
FUND BALANCES - END OF YEAR		<u>\$ 139,518</u>			<u>\$ 63,744</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Goodyear Road Landscaping and Lighting			Community Development Block Grant		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	1,145	1,145	-	94,078	94,078
Intergovernmental Revenues	-	-	-	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	4,000	3,998	(2)	-	-	-
Community Donations	-	-	-	-	-	-
Other	-	-	-	-	46,573	46,573
Total Revenues	4,000	5,143	1,143	-	140,651	140,651
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	32,961	9,240	23,721	-	-	-
Public Works	-	-	-	-	-	-
Community Development	-	11	(11)	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	32,961	9,251	23,710	-	-	-
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(28,961)	(4,108)	24,853	-	140,651	140,651
OTHER FINANCING SOURCES (USES)						
Transfers In	-	-	-	-	-	-
Transfer Out	-	(156)	(156)	-	-	-
Total Other Financing Sources (Uses)	-	(156)	(156)	-	-	-
NET CHANGE IN FUND BALANCES	<u>\$ (28,961)</u>	<u>(4,264)</u>	<u>\$ 24,697</u>	<u>\$ -</u>	<u>140,651</u>	<u>\$ 140,651</u>
Fund Balances - Beginning of Year		24,568			4,045	
FUND BALANCES - END OF YEAR		<u>\$ 20,304</u>			<u>\$ 144,696</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Community Services Program			Library Programs		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	19,746	19,746	-	6,128	6,128
Intergovernmental Revenues	-	-	-	122,949	60,374	(62,575)
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	30,000	77,930	47,930	-	438	438
Community Donations	-	-	-	70,000	64,802	(5,198)
Other	-	-	-	-	-	-
Total Revenues	30,000	97,676	67,676	192,949	131,742	(61,207)
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Public Works	-	-	-	-	-	-
Community Development	100,000	99,544	456	-	-	-
Library	-	-	-	265,217	182,089	83,128
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	100,000	99,544	456	265,217	182,089	83,128
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(70,000)	(1,868)	68,132	(72,268)	(50,347)	21,921
OTHER FINANCING SOURCES (USES)						
Transfers In	-	-	-	-	-	-
Transfer Out	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	-	-	-
NET CHANGE IN FUND BALANCES	<u>\$ (70,000)</u>	<u>(1,868)</u>	<u>\$ 68,132</u>	<u>\$ (72,268)</u>	<u>(50,347)</u>	<u>\$ 21,921</u>
Fund Balances - Beginning of Year		365,664			116,839	
FUND BALANCES - END OF YEAR		<u>\$ 363,796</u>			<u>\$ 66,492</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	County Sales Tax Measure			Southern Pacific Depot		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	9,098	9,098	2,500	12,913	10,413
Intergovernmental Revenues	-	-	-	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	-	-	-	-	-	-
Community Donations	-	-	-	-	-	-
Other	-	-	-	-	-	-
Total Revenues	-	9,098	9,098	2,500	12,913	10,413
EXPENDITURES						
Current:						
Administration	-	-	-	10,000	-	10,000
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Public Works	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	-	-	-	10,000	-	10,000
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	-	9,098	9,098	(7,500)	12,913	20,413
OTHER FINANCING SOURCES (USES)						
Transfers In	-	-	-	-	-	-
Transfer Out	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	-	-	-
NET CHANGE IN FUND BALANCES	<u>\$ -</u>	<u>9,098</u>	<u>\$ 9,098</u>	<u>\$ (7,500)</u>	<u>12,913</u>	<u>\$ 20,413</u>
Fund Balances - Beginning of Year		173,175			164,449	
FUND BALANCES - END OF YEAR		<u>\$ 182,273</u>			<u>\$ 177,362</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Public Safety Grants			Human Services		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	2,000	99,009	97,009	-	1,373	1,373
Intergovernmental Revenues	322,760	272,967	(49,793)	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	-	-	-	-	-	-
Community Donations	-	1,376	1,376	-	-	-
Other	-	-	-	-	-	-
Total Revenues	324,760	373,352	48,592	-	1,373	1,373
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	642,609	339,330	303,279	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Public Works	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	642,609	339,330	303,279	-	-	-
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(317,849)	34,022	351,871	-	1,373	1,373
OTHER FINANCING SOURCES (USES)						
Transfers In	129,000	121,000	(8,000)	-	-	-
Transfer Out	-	(1,620)	(1,620)	(124,411)	(124,411)	-
Total Other Financing Sources (Uses)	129,000	119,380	(9,620)	(124,411)	(124,411)	-
NET CHANGE IN FUND BALANCES	<u>\$ (188,849)</u>	153,402	<u>\$ 342,251</u>	<u>\$ (124,411)</u>	(123,038)	<u>\$ 1,373</u>
Fund Balances - Beginning of Year		1,471,544			135,999	
FUND BALANCES - END OF YEAR		<u>\$ 1,624,946</u>			<u>\$ 12,961</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Developer Deposits			Tourtelot Mitigation		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	47,062	47,062	3,000	24,562	21,562
Intergovernmental Revenues	-	-	-	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	-	180	180	-	-	-
Community Donations	-	-	-	-	-	-
Other	-	7,578	7,578	-	-	-
Total Revenues	-	54,820	54,820	3,000	24,562	21,562
EXPENDITURES						
Current:						
Administration	-	-	-	15,000	4,374	10,626
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Public Works	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	33,022	(33,022)	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	-	33,022	(33,022)	15,000	4,374	10,626
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	-	21,798	21,798	(12,000)	20,188	32,188
OTHER FINANCING SOURCES (USES)						
Transfers In	-	-	-	-	-	-
Transfer Out	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	-	-	-
NET CHANGE IN FUND BALANCES	<u>\$ -</u>	<u>21,798</u>	<u>\$ 21,798</u>	<u>\$ (12,000)</u>	<u>20,188</u>	<u>\$ 32,188</u>
Fund Balances - Beginning of Year		653,963			471,361	
FUND BALANCES - END OF YEAR		<u>\$ 675,761</u>			<u>\$ 491,549</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	FEMA			Measure F (Streets)		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	860,489	860,489
Assessments	-	-	-	-	-	-
Use of Money and Property	-	2,729	2,729	-	3,337	3,337
Intergovernmental Revenues	-	-	-	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	-	-	-	-	-	-
Community Donations	-	-	-	-	-	-
Other	-	-	-	-	-	-
Total Revenues	-	2,729	2,729	-	863,826	863,826
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Public Works	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	-	-	-	-	-	-
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	-	2,729	2,729	-	863,826	863,826
OTHER FINANCING SOURCES (USES)						
Transfers In	-	-	-	-	-	-
Transfer Out	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	-	-	-
NET CHANGE IN FUND BALANCES	<u>\$ -</u>	<u>2,729</u>	<u>\$ 2,729</u>	<u>\$ -</u>	<u>863,826</u>	<u>\$ 863,826</u>
Fund Balances - Beginning of Year		51,935			-	
FUND BALANCES - END OF YEAR		<u>\$ 54,664</u>			<u>863,826</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

Valero GNSC			
	Budget	Actual	Variance Positive (Negative)
REVENUES			
Property Tax	\$ -	\$ -	\$ -
Sales Tax	-	-	-
Assessments	-	-	-
Use of Money and Property	-	9,814	9,814
Intergovernmental Revenues	-	-	-
Revenue from Other Agencies	-	-	-
Current Service Charges	-	-	-
Community Donations	-	-	-
Other	-	-	-
Total Revenues	-	9,814	9,814
EXPENDITURES			
Current:			
Administration	-	-	-
Public Safety - Police	-	-	-
Public Safety - Fire	-	-	-
Parks and Community Services	-	-	-
Public Works	-	-	-
Community Development	-	-	-
Library	-	-	-
General	-	-	-
Capital Outlay	-	-	-
Debt Service:			
Principal	-	-	-
Interest and Fiscal Charges	-	-	-
Debt Issuance Costs	-	-	-
Total Expenditures	-	-	-
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	-	9,814	9,814
OTHER FINANCING SOURCES (USES)			
Transfers In	-	-	-
Transfer Out	-	-	-
Total Other Financing Sources (Uses)	-	-	-
NET CHANGE IN FUND BALANCES	\$ -	9,814	\$ 9,814
Fund Balances - Beginning of Year		268,993	
FUND BALANCES - END OF YEAR		\$ 278,807	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Traffic Mitigation			Park Dedication		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	1,924	1,924	-	15,059	15,059
Intergovernmental Revenues	-	-	-	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	20,000	40,809	20,809	-	11,280	11,280
Community Donations	-	-	-	-	-	-
Other	-	-	-	-	-	-
Total Revenues	20,000	42,733	22,733	-	26,339	26,339
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Public Works	-	-	-	-	-	-
Community Development	51,825	32,539	19,286	-	-	-
Library	128,099	3,142	124,957	-	-	-
General	-	-	-	-	-	-
Capital Outlay	9,212	9,212	-	-	-	-
Debt Service:						
Principal	-	-	-	-	-	-
Interest and Fiscal Charges	-	-	-	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	189,136	44,893	144,243	-	-	-
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(169,136)	(2,160)	166,976	-	26,339	26,339
OTHER FINANCING SOURCES (USES)						
Transfers In	72,650	72,650	-	-	134	134
Transfer Out	-	(1,032)	(1,032)	-	(134)	(134)
Total Other Financing Sources (Uses)	72,650	71,618	(1,032)	-	-	-
NET CHANGE IN FUND BALANCES	<u>\$ (96,486)</u>	69,458	<u>\$ 165,944</u>	<u>\$ -</u>	26,339	<u>\$ 26,339</u>
Fund Balances - Beginning of Year		16,212			282,105	
FUND BALANCES - END OF YEAR		<u>\$ 85,670</u>			<u>\$ 308,444</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

	Retirement Stability Fund			General Obligation Bonds		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
REVENUES						
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales Tax	-	-	-	-	-	-
Assessments	-	-	-	-	-	-
Use of Money and Property	-	76,341	76,341	-	3,487	3,487
Intergovernmental Revenues	-	-	-	-	-	-
Revenue from Other Agencies	-	-	-	-	-	-
Current Service Charges	-	-	-	-	-	-
Community Donations	-	-	-	-	-	-
Other	672,631	-	(672,631)	-	-	-
Total Revenues	672,631	76,341	(596,290)	-	3,487	3,487
EXPENDITURES						
Current:						
Administration	-	-	-	-	-	-
Public Safety - Police	-	-	-	-	-	-
Public Safety - Fire	-	-	-	-	-	-
Parks and Community Services	-	-	-	-	-	-
Public Works	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Library	-	-	-	-	-	-
General	-	-	-	-	-	-
Capital Outlay	-	-	-	-	-	-
Debt Service:						
Principal	455,000	455,000	-	-	-	-
Interest and Fiscal Charges	221,531	221,196	335	-	-	-
Debt Issuance Costs	-	-	-	-	-	-
Total Expenditures	676,531	676,196	335	-	-	-
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(3,900)	(599,855)	(595,955)	-	3,487	3,487
OTHER FINANCING SOURCES (USES)						
Transfers In	-	676,524	676,524	-	-	-
Transfer Out	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	676,524	676,524	-	-	-
NET CHANGE IN FUND BALANCES	<u>\$ (3,900)</u>	<u>76,669</u>	<u>\$ 80,569</u>	<u>\$ -</u>	<u>3,487</u>	<u>\$ 3,487</u>
Fund Balances - Beginning of Year		1,292,751			219,665	
FUND BALANCES - END OF YEAR		<u>\$ 1,369,420</u>			<u>\$ 223,152</u>	

**CITY OF BENICIA
BUDGETED NONMAJOR FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES (CONTINUED)
BUDGET AND ACTUAL
YEAR ENDED JUNE 30, 2025**

Total Nonmajor Governmental Funds			
	Budget	Actual	Variance Positive (Negative)
REVENUES			
Property Tax	\$ -	\$ -	\$ -
Sales Tax	-	860,489	860,489
Assessments	-	-	-
Use of Money and Property	8,300	696,147	687,847
Intergovernmental Revenues	2,175,702	1,837,757	(337,945)
Revenue from Other Agencies	-	-	-
Current Service Charges	855,800	757,511	(98,289)
Community Donations	70,000	66,178	(3,822)
Other	672,631	64,465	(608,166)
Total Revenues	3,782,433	4,282,547	500,114
EXPENDITURES			
Current:			
Administration	25,000	4,374	20,626
Public Safety - Police	642,609	339,330	303,279
Public Safety - Fire	-	-	-
Parks and Community Services	1,571,968	757,581	814,387
Public Works	150,000	-	150,000
Community Development	1,151,780	708,835	442,945
Library	393,316	185,231	208,085
General	-	-	-
Capital Outlay	2,310,643	246,495	2,064,148
Debt Service:			
Principal	455,000	455,000	-
Interest and Fiscal Charges	221,531	254,218	(32,687)
Debt Issuance Costs	-	-	-
Total Expenditures	6,921,847	2,951,064	3,970,783
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(3,139,414)	1,331,483	4,470,897
OTHER FINANCING SOURCES (USES)			
Transfers In	701,650	1,370,308	668,658
Transfer Out	(324,411)	(133,593)	190,818
Total Other Financing Sources (Uses)	377,239	1,236,715	859,476
NET CHANGE IN FUND BALANCES	<u>\$ (2,762,175)</u>	2,568,198	<u>\$ 5,330,373</u>
Fund Balances - Beginning of Year		9,630,897	
FUND BALANCES - END OF YEAR		<u>\$ 12,199,095</u>	

**CITY OF BENICIA
INTERNAL SERVICE FUNDS
JUNE 30, 2025**

Insurance Fund

Accounts for the accumulation and allocation of costs associated with the administration of medical coverage, temporary disability payments, safety training to all employees, and maintaining excess insurance coverage for Workers' Compensation.

General Services

Accounts for the accumulation and allocation of costs pertaining to utility billing, liability insurance, and property insurance of the Water and Wastewater Funds. The Fund also accounts for the preparation, maintenance, and repair of mechanical equipment and vehicles for other departments.

Building and Equipment Management

Accounts for the maintenance and remodeling of City owned buildings and facilities, and acquisition of replacement vehicles and equipment.

Energy Fund

Accounts for the accumulation and allocation of costs for certain energy conservation projects throughout the City; primarily solar panels and the 2016 Certificates of Participation that were issued to fund the project. The fund operates as an internal electricity-provider to various sites within the City where solar arrays were constructed. Sources of the revenue include service charges to departments and energy rebates.

**CITY OF BENICIA
INTERNAL SERVICE FUNDS
COMBINING STATEMENT OF NET POSITION
JUNE 30, 2025**

	Insurance	General Services	Building and Equipment Management	Energy	Total
ASSETS					
Current Assets:					
Cash and Investments:	\$ 5,462,378	\$ 858,117	\$ 6,541,145	\$ 2,459,588	\$ 15,321,228
Restricted Cash and Investments	46,928	-	-	-	46,928
Accounts Receivable	-	-	7,424	-	7,424
Inventories	-	68,975	-	-	68,975
Total Current Assets	5,509,306	927,092	6,548,569	2,459,588	15,444,555
Noncurrent Assets:					
SBITA Asset, Net	-	-	95,788	-	95,788
Property, Plant, and Equipment:					
Land	-	-	-	556,909	556,909
Buildings and Improvements	-	-	13,108,305	12,643,186	25,751,491
Machinery and Equipment	-	1,119,480	5,696,518	-	6,815,998
Less: Accumulated Depreciation	-	(914,497)	(13,852,847)	(4,529,095)	(19,296,439)
Total Noncurrent Assets	-	204,983	5,047,764	8,671,000	13,923,747
Total Assets	5,509,306	1,132,075	11,596,333	11,130,588	29,368,302
LIABILITIES					
Current Liabilities:					
Accounts Payable	34,254	53,656	13,077	27	101,014
Salaries and Benefits Payable	-	11,713	-	-	11,713
Expenses Payable	-	938	14,433	-	15,371
Interest Payable	-	-	2,092	45,291	47,383
Self-Insurance Liability - Current	738,000	-	-	-	738,000
SBITA Liability - Current	-	-	30,306	-	30,306
Notes and Bonds Payable - Current	-	-	-	570,000	570,000
Accrued Vacation and Sick Leave - Current	-	14,150	-	-	14,150
Total Current Liabilities	772,254	80,457	59,908	615,318	1,527,937
Noncurrent Liabilities:					
Self-Insurance Liability	3,054,000	-	-	-	3,054,000
SBITA Liability	-	-	62,857	-	62,857
Notes and Bonds Payable	-	-	-	8,367,610	8,367,610
Accrued Vacation and Sick Leave	-	26,742	-	-	26,742
Total Noncurrent Liabilities	3,054,000	26,742	62,857	8,367,610	11,511,209
Total Liabilities	3,826,254	107,199	122,765	8,982,928	13,039,146
NET POSITION					
Net Investments in Capital Assets	-	204,983	4,954,601	(265,164)	4,894,420
Unrestricted	1,683,052	819,893	6,518,967	2,412,824	11,434,736
Total Net Position	\$ 1,683,052	\$ 1,024,876	\$ 11,473,568	\$ 2,147,660	\$ 16,329,156

**CITY OF BENICIA
INTERNAL SERVICE FUNDS
COMBINING STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET POSITION
YEAR ENDED JUNE 30, 2025**

	Insurance	General Services	Building and Equipment Management	Energy	Total
OPERATING REVENUES					
Charges for Services	\$ 620,287	\$ 715,161	\$ -	\$ 952,300	\$ 2,287,748
Refunds and Rebates	-	237,191	-	556,913	794,104
Total Operating Revenues	620,287	952,352	-	1,509,213	3,081,852
OPERATING EXPENSES					
Salaries and Benefits	-	480,015	-	-	480,015
Services and Supplies	516,917	152,444	477,316	132,790	1,279,467
Insurance Benefit Payments	1,103,694	-	-	-	1,103,694
Depreciation/Amortization	-	31,440	421,289	349,747	802,476
Total Operating Expenses	1,620,611	663,899	929,672	482,537	3,696,719
OPERATING INCOME (LOSS)	(1,000,324)	288,453	(929,672)	1,026,676	(614,867)
NONOPERATING REVENUES (EXPENSES)					
Investment Income (Expense)	249,932	31,932	298,048	114,655	694,567
Interest Expense	-	-	(5,100)	(264,841)	(269,941)
Sale of Capital Assets	-	13,400	19,424	-	32,824
Total Nonoperating Revenues (Expenses)	249,932	45,332	312,372	(150,186)	457,450
INCOME (LOSS) BEFORE CAPITAL CONTRIBUTIONS AND TRANSFERS	(750,392)	333,785	(617,300)	876,490	(157,417)
Transfers In	500,000	-	1,826,000	-	2,326,000
Transfers Out	-	(7,812)	-	-	(7,812)
CHANGE IN NET POSITION	(250,392)	325,973	1,208,700	876,490	2,160,771
Net Position - Beginning of Year, as Originally Reported	1,933,444	719,578	10,264,868	1,271,170	14,189,060
Change in Accounting Principle	-	(20,675)	-	-	(20,675)
Net Position - Beginning of Year, as Restated	1,933,444	698,903	10,264,868	1,271,170	14,168,385
NET POSITION - END OF YEAR	<u>\$ 1,683,052</u>	<u>\$ 1,024,876</u>	<u>\$ 11,473,568</u>	<u>\$ 2,147,660</u>	<u>\$ 16,329,156</u>

**CITY OF BENICIA
INTERNAL SERVICE FUNDS
COMBINING STATEMENT OF CASH FLOWS
YEAR ENDED JUNE 30, 2025**

	Insurance	General Services	Building and Equipment Management	Energy	Total
CASH FLOWS FROM OPERATING ACTIVITIES					
Receipts from Customers	\$ 1,271,633	\$ 952,352	\$ -	\$ 1,509,213	\$ 3,733,198
Payments to Suppliers	(1,608,580)	(164,097)	(1,032,821)	(136,276)	(2,941,774)
Payments to Employees	-	(477,200)	-	(3,400)	(480,600)
Net Cash Provided by Operating Activities	(336,947)	311,055	(1,032,821)	1,369,537	310,824
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES					
Transfers in	500,000	-	1,826,000	-	2,326,000
Transfers Out	-	(7,812)	-	-	(7,812)
Net Cash Provided by Noncapital Financing Activities	500,000	(7,812)	1,826,000	-	2,318,188
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES					
Acquisition of Capital Assets	-	(236,423)	-	(556,913)	(793,336)
Sale of Capital Assets	-	13,400	95,603	-	109,003
Principal Paid on Capital Debt	-	-	(29,581)	(533,903)	(563,484)
Interest Paid on Capital Debt	-	-	(5,100)	(264,841)	(269,941)
Net Cash Used by Capital and Related Financing Activities	-	(223,023)	60,922	(1,355,657)	(1,517,758)
CASH FLOWS FROM INVESTING ACTIVITIES					
Interest Received	249,932	31,932	300,140	114,655	696,659
Net Cash Provided by Investing Activities	249,932	31,932	300,140	114,655	696,659
INCREASE IN CASH AND INVESTMENTS	412,985	112,152	1,154,241	128,535	1,807,913
Cash and Investments - Beginning of Year	5,096,321	745,965	5,386,904	2,331,053	13,560,243
CASH AND INVESTMENTS - END OF YEAR	<u>\$ 5,509,306</u>	<u>\$ 858,117</u>	<u>\$ 6,541,145</u>	<u>\$ 2,459,588</u>	<u>\$ 15,368,156</u>
RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED BY OPERATING ACTIVITIES					
Operating Income (Loss)	\$ (1,000,324)	\$ 288,453	\$ (929,672)	\$ 1,026,676	\$ (614,867)
Adjustments to Reconcile Operating Income (Loss) to Net Cash Provided (Used) by Operating Activities:					
Depreciation and Amortization	-	31,440	452,356	349,747	833,543
(Increase) Decrease in Assets:					
Inventory	-	(25,653)	-	-	(25,653)
Increase (Decrease) in Liabilities:					
Accounts Payable	12,031	14,125	(562,514)	(3,486)	(539,844)
Accrued Salaries and Benefits	-	1,204	-	(3,400)	(2,196)
Accrued Expenses	-	(125)	14,433	-	14,308
Compensated Absences Payable	651,346	1,611	-	-	652,957
Net Cash Provided by Operating Activities:	<u>(336,947)</u>	<u>311,055</u>	<u>(1,032,821)</u>	<u>1,369,537</u>	<u>310,824</u>

**CITY OF BENICIA
CUSTODIAL FUNDS
JUNE 30, 2025**

GASB Statement 34 requires that Custodial Funds be presented separately from the Government-Wide and Fund financial statements.

Custodial Fund account for assets held by the City as an agent for individuals, government entities, and nonpublic organizations.

Assessment Districts

Accounts for the collection of assessments and disbursements to District bondholders for Assessment Districts debt without City commitment.

**CITY OF BENICIA
CUSTODIAL FUNDS
COMBINING STATEMENT OF FIDUCIARY NET POSITION
JUNE 30, 2025**

	Fleetside Industrial Assessment District Custodial Fund	McAllister Assessment District Custodial Fund	Total
ASSETS			
Restricted Cash and Investments	\$ 2,618	\$ 1,531,275	\$ 1,533,893
Total Assets	<u>2,618</u>	<u>1,531,275</u>	<u>1,533,893</u>
LIABILITIES			
Deposits from Others	<u>-</u>	<u>1,276,140</u>	<u>1,276,140</u>
Total Liabilities	-	1,276,140	1,276,140
NET POSITION			
Restricted for Other Governments	<u>2,618</u>	<u>255,135</u>	<u>257,753</u>
Total Net Position	<u><u>\$ 2,618</u></u>	<u><u>\$ 255,135</u></u>	<u><u>\$ 257,753</u></u>

**CITY OF BENICIA
CUSTODIAL FUNDS
COMBINING STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
YEAR ENDED JUNE 30, 2025**

	Fleetside Industrial Assessment District Custodial Fund	McAllister Assessment District Custodial Fund	Total
ADDITIONS			
Fees, Fines and Charges	\$ -	\$ 682,009	\$ 682,009
Use of Money and Property	131	66,797	66,928
Total Additions	<u>131</u>	<u>748,806</u>	<u>748,937</u>
DEDUCTIONS			
Debt Service	<u>-</u>	<u>685,318</u>	<u>685,318</u>
Total Deductions	<u>-</u>	<u>685,318</u>	<u>685,318</u>
CHANGE IN NET POSITION	131	63,488	63,619
Net Position - Beginning of Year	<u>2,487</u>	<u>191,647</u>	<u>194,134</u>
NET POSITION - END OF YEAR	<u><u>\$ 2,618</u></u>	<u><u>\$ 255,135</u></u>	<u><u>\$ 257,753</u></u>

**CITY OF BENICIA
STATISTICAL SECTION
JUNE 30, 2025**

This part of the City's Annual Comprehensive Financial Report presents detailed information as a context for understanding what the information in the financial statements, note disclosures, and required supplementary information says about the City's overall financial health. In contrast to the financial section, the statistical section information is not subject to independent audit.

Financial Trends

These schedules contain trend information to help the reader understand how the City's financial performance and well-being have changed over time:

1. Net Position by Component
2. Changes in Net Position
3. Government Activities of Tax Revenue By Source
4. Fund Balances of Governmental Funds
5. Changes in Fund Balance of Governmental Funds

Revenue Capacity

These schedules contain information to help the reader assess the City's most significant local revenue source, the property tax:

1. Assessed and Estimated Actual Value of Taxable Property
2. Property Tax Rates, All Direct and Overlapping Governments
3. Principal Property Taxpayers
4. Property Tax Levies and Collections

Debt Capacity

These schedules present information to help the reader assess the affordability of the City's current levels of outstanding debt and the City's ability to issue additional debt in the future:

1. Ratio of Outstanding Debt by Type
2. Ratio of General Bonded Debt Outstanding
3. Computation of Direct and Overlapping Debt
4. Computation of Legal Bonded Debt Margin
5. Pledged Revenue Coverage, Water and Wastewater Revenue Bonds

Demographic and Economic Information

These schedules offer demographic and economic indicators to help the reader understand the environment within which the City's financial activities take place:

1. Demographic and Economic Statistics
2. Principal Employers

**CITY OF BENICIA
STATISTICAL SECTION (CONTINUED)
JUNE 30, 2025**

Operating Information

These schedules contain service and infrastructure data to help the reader understand how the information in the City's financial report relates to the services the City provides and the activities it performs:

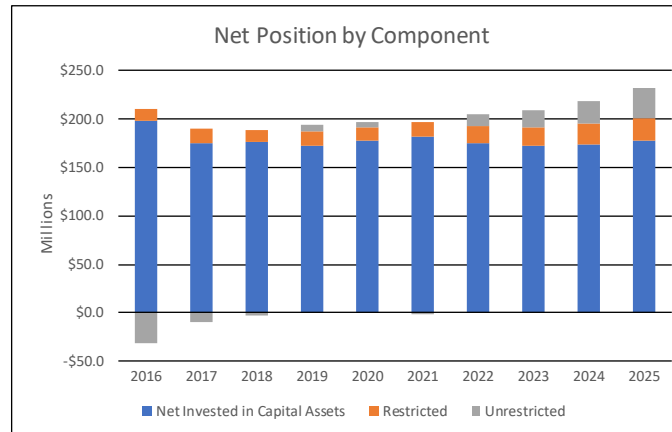
1. Full-Time Equivalent City Government Employees by Function
2. Operating Indicators by Function/Program
3. Capital Asset Statistics by Function/Program

Sources

Unless otherwise noted, the information in these schedules is derived from the Annual Comprehensive Financial Reports for the relevant year.

**CITY OF BENICIA
NET POSITION BY COMPONENT
LAST TEN FISCAL YEARS
(ACCRUAL BASIS OF ACCOUNTING)**

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Governmental Activities:										
Net Investments in Capital Assets	\$ 116,727,502	\$ 114,719,779	\$ 113,971,990	\$ 111,533,644	\$ 111,246,475	\$ 115,949,240	\$ 110,083,360	\$ 108,103,822	\$ 106,694,232	\$ 108,458,444
Restricted	12,963,665	13,887,513	12,863,103	14,506,595	13,743,678	14,570,385	18,167,902	18,827,124	21,440,488	22,895,000
Unrestricted	(37,759,794)	(35,607,065)	(30,149,114)	(24,631,064)	(25,754,414)	(38,383,398)	(36,155,775)	(31,236,604)	(28,629,542)	(26,821,414)
Total Governmental Activities Net Position	<u>\$ 91,931,373</u>	<u>\$ 93,000,227</u>	<u>\$ 96,685,979</u>	<u>\$ 101,409,175</u>	<u>\$ 99,235,739</u>	<u>\$ 92,136,227</u>	<u>\$ 92,095,487</u>	<u>\$ 95,694,342</u>	<u>\$ 99,505,178</u>	<u>\$ 104,532,030</u>
Business-Type Activities										
Net Investments in Capital Assets	\$ 81,305,746	\$ 59,960,276	\$ 61,926,677	\$ 61,430,709	\$ 66,187,949	\$ 66,381,160	\$ 64,854,947	\$ 64,332,735	\$ 66,791,484	\$ 69,021,858
Restricted	-	1,997,713	70	378	-	-	-	-	-	-
Unrestricted	5,625,599	26,185,642	27,179,931	31,582,150	31,818,921	36,466,103	47,715,706	48,640,589	52,974,796	58,253,264
Total Business-Type Activities Net Position	<u>\$ 86,931,345</u>	<u>\$ 88,143,631</u>	<u>\$ 89,106,678</u>	<u>\$ 93,013,237</u>	<u>\$ 98,006,870</u>	<u>\$ 102,847,263</u>	<u>\$ 112,570,653</u>	<u>\$ 112,973,324</u>	<u>\$ 119,766,280</u>	<u>\$ 127,275,122</u>
Primary Government:										
Invested in Capital Assets, Net of Related Debt	\$ 198,033,248	\$ 174,680,055	\$ 175,898,667	\$ 172,964,353	\$ 177,434,424	\$ 182,330,400	\$ 174,938,307	\$ 172,436,557	\$ 173,485,716	\$ 177,480,302
Restricted	12,963,665	15,885,226	12,863,173	14,506,973	13,743,678	14,570,385	18,167,902	18,827,124	21,440,488	22,895,000
Unrestricted	(32,134,195)	(9,421,423)	(2,969,183)	6,951,086	6,064,507	(1,917,295)	11,559,931	17,403,985	24,345,254	31,431,850
Total Primary Government Net Position	<u>\$ 178,862,718</u>	<u>\$ 181,143,858</u>	<u>\$ 185,792,657</u>	<u>\$ 194,422,412</u>	<u>\$ 197,242,609</u>	<u>\$ 194,983,490</u>	<u>\$ 204,666,140</u>	<u>\$ 208,667,666</u>	<u>\$ 219,271,458</u>	<u>\$ 231,807,152</u>



**CITY OF BENICIA
CHANGES IN NET POSITION
LAST TEN FISCAL YEARS
(ACCRUAL BASIS OF ACCOUNTING)**

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
EXPENSES										
Governmental Activities:										
Administration	\$ 4,959,201	\$ 4,217,323	\$ 4,560,565	\$ 6,487,670	\$ 6,697,532	\$ 7,002,160	\$ 8,211,133	\$ 8,343,502	\$ 8,218,589	\$ 9,167,803
Community Development	2,130,335	1,831,203	1,563,805	1,566,616	1,896,538	3,290,103	14,137,535	11,811,939	14,924,461	16,637,106
Public Safety - Police	7,817,517	9,322,788	11,096,614	11,666,246	13,244,824	14,367,028	12,701,839	12,072,587	12,494,669	14,903,154
Public Safety - Fire	8,154,710	7,716,881	8,241,007	9,191,539	11,294,801	13,110,491	8,046,565	7,554,995	7,055,329	5,193,597
Parks and Community Services	5,498,189	6,069,250	5,733,687	6,467,431	7,110,664	10,697,730	6,470,462	7,540,767	5,946,315	6,311,539
Public Works	4,771,504	6,613,923	6,179,886	5,631,831	5,787,410	3,531,142	3,109,041	3,310,384	3,371,073	4,417,379
Library	2,326,530	2,079,165	2,172,746	2,297,867	2,566,138	2,856,757	2,723,994	2,775,743	2,904,777	5,507,085
Economic Development	899,096	710,024	497,125	537,434	861,110	1,374,049	1,055,916	1,183,389	686,877	700,911
General Government	798,993	235,455	180,571	165,098	2,163,568	2,130,810	3,021,066	2,583,187	4,753,818	4,757,131
Interest Expense	1,336,569	2,345,357	897,815	864,186	840,420	816,266	625,854	94,360	456,437	645,441
Total Governmental Activities Expenses	38,692,644	41,141,369	41,123,821	44,875,918	52,463,005	59,176,536	60,103,405	57,270,853	60,812,345	68,241,146
Business-Type Activities:										
Wastewater	8,172,784	9,060,845	9,362,519	9,198,416	9,980,271	8,613,158	6,891,342	10,027,545	10,962,562	10,505,098
Water	8,097,701	8,993,593	10,536,424	10,175,634	9,638,612	9,633,030	9,093,203	12,856,262	11,431,966	12,371,076
Benicia Marina	582,394	633,550	513,443	569,445	708,217	587,833	982,398	2,039,897	1,884,649	637,202
Total Business-Type Activities Expenses	16,852,879	18,687,988	20,412,386	19,943,495	20,327,100	18,834,021	16,966,943	24,923,704	24,279,177	23,513,376
Total Primary Government Expenses	\$ 55,545,523	\$ 59,829,357	\$ 61,536,207	\$ 64,819,413	\$ 72,790,105	\$ 78,010,557	\$ 77,070,348	\$ 82,194,557	\$ 85,091,522	\$ 91,754,522
PROGRAM REVENUES										
Governmental Activities:										
Charges for Services:										
Administration	\$ 5,935	\$ 20,259	\$ 120,593	\$ 255,008	\$ 2,117,170	\$ 2,722,222	\$ 468	\$ 1,820	\$ 3,476,309	\$ 3,603,885
Community Development	610,671	545,626	863,228	1,367,550	1,029,614	1,931,048	403,281	465,463	434,247	501,905
Public Safety - Police	499,701	345,379	426,313	563,479	528,428	872,088	446,019	500,896	631,622	666,938
Public Safety - Fire	456,057	234,714	518,703	560,006	380,071	1,073,843	1,621,248	1,778,224	1,668,723	11,780
Parks and Community Services	1,654,462	1,775,994	1,685,586	1,775,140	1,425,056	878,756	511,007	467,788	900,731	993,357
Public Works	141,411	325,450	658,717	455,869	598,334	652,754	4,864	40,720	124,217	1,759,651
Library	71,019	71,601	179,159	87,245	103,757	17,638	-	-	-	-
Economic Development	-	-	-	-	-	-	3,136,649	4,209,537	667,562	878,067
General Government	353,818	371,572	-	-	-	-	-	-	-	-
Operating Grants and Contributions	1,969,791	1,690,512	1,791,033	2,195,626	2,344,240	3,111,785	10,109,655	1,496,929	2,954,580	2,738,746
Capital Grants and Contributions	1,228,558	468,073	-	-	-	-	639,479	854,247	1,396,363	193,944
Total Governmental Activities Program Revenues	6,991,423	5,849,180	6,243,332	7,259,923	8,526,670	11,260,134	18,001,690	11,025,320	13,525,816	12,927,550

**CITY OF BENICIA
CHANGES IN NET POSITION (CONTINUED)
LAST TEN FISCAL YEARS
(ACCRUAL BASIS OF ACCOUNTING)**

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
PROGRAM REVENUES (CONTINUED)										
Business-Type Activities:										
Charges for Services:										
Wastewater	\$ 8,674,971	\$ 9,004,873	\$ 10,567,478	\$ 10,360,101	\$ 10,975,334	\$ 11,407,409	\$ 11,569,968	\$ 11,854,204	\$ 12,117,643	\$ 12,646,298
Water	8,786,778	10,187,339	10,993,586	11,900,413	12,175,862	12,585,955	12,301,684	12,304,057	13,017,016	15,426,458
Benicia Marina	318,837	326,316	334,033	327,234	335,206	143,888	156,130	395,538	382,946	314,720
Wastewater Capital	-	-	-	-	-	-	-	-	-	-
Water Capital	-	-	-	-	-	-	-	-	-	-
Operating Grants and Contributions	78,164	82,978	77,480	78,513	75,063	13,850	455,886	-	1,772,766	-
Capital Grants and Contributions	-	-	-	-	-	-	-	-	-	-
Total Business-Type Activities	17,858,750	19,601,506	21,972,577	22,666,261	23,561,465	24,151,102	24,483,668	24,553,799	27,290,371	28,387,476
Total Primary Government Program Revenues	<u>\$ 24,850,173</u>	<u>\$ 25,450,686</u>	<u>\$ 28,215,909</u>	<u>\$ 29,926,184</u>	<u>\$ 32,088,135</u>	<u>\$ 35,411,236</u>	<u>\$ 42,485,358</u>	<u>\$ 35,579,119</u>	<u>\$ 40,816,187</u>	<u>\$ 41,315,026</u>
NET REVENUE (EXPENSE)										
Governmental Activities	\$ (31,701,221)	\$ (35,292,189)	\$ (34,880,489)	\$ (37,615,995)	\$ (43,936,335)	\$ (47,916,402)	\$ (42,101,715)	\$ (46,245,533)	\$ (47,286,529)	\$ (55,313,596)
Business-Type Activities	1,005,871	913,518	1,560,191	2,722,766	3,234,365	5,317,081	7,516,725	(369,905)	3,011,194	4,874,100
Total Primary Government Net Expense	<u>\$ (30,695,350)</u>	<u>\$ (34,378,671)</u>	<u>\$ (33,320,298)</u>	<u>\$ (34,893,229)</u>	<u>\$ (40,701,970)</u>	<u>\$ (42,599,321)</u>	<u>\$ (34,584,990)</u>	<u>\$ (46,615,438)</u>	<u>\$ (44,275,335)</u>	<u>\$ (50,439,496)</u>
GENERAL REVENUES AND OTHER CHANGES IN NET POSITION										
Governmental Activities:										
Taxes:										
Property Taxes	\$ 16,254,148	\$ 17,003,131	\$ 20,040,594	\$ 18,469,252	\$ 19,157,225	\$ 19,431,592	\$ 20,030,953	\$ 21,236,363	\$ 22,164,925	\$ 23,424,933
Sales Tax	12,040,536	11,388,283	12,604,790	14,261,749	12,708,340	14,257,643	15,708,069	15,746,508	15,614,725	19,554,291
Utility Users Tax	4,594,385	4,515,825	4,642,195	4,777,814	5,002,314	4,933,493	5,066,048	5,620,299	6,337,745	6,804,774
Franchise Fees	2,079,543	2,148,659	2,173,140	1,954,908	2,345,123	2,131,560	2,474,913	3,109,700	2,847,731	2,871,399
Transient Occupancy Taxes	-	-	-	-	-	-	530,327	564,562	442,470	633,936
Transfer Taxes	-	-	-	-	-	-	379,843	141,720	120,929	128,804
Other Taxes	1,106,213	1,204,737	1,238,623	1,242,730	1,035,906	1,197,212	530,809	501,329	558,992	361,085
Motor Vehicle in Lieu	11,172	12,320	14,580	39,862	21,842	38,268	-	-	-	-
Investment Earnings	380,381	180,174	493,564	1,668,253	1,761,124	544,574	(1,754,437)	1,669,020	3,352,669	4,138,379
Gain from Disposal of Capital Assets	-	-	76,795	-	-	-	-	-	39,171	51,972
Miscellaneous	662,398	117,189	136,593	175,714	470,407	186,048	2,123,303	2,641,887	1,167,160	3,648,251
Transfers	15,725	(209,275)	66,974	(251,091)	(739,382)	(250,000)	(3,053,020)	(1,387,000)	(1,549,152)	(268,881)
Total Government Activities	37,144,501	36,361,043	41,487,848	42,339,191	41,762,899	42,470,390	42,036,808	49,844,388	51,097,365	61,348,943

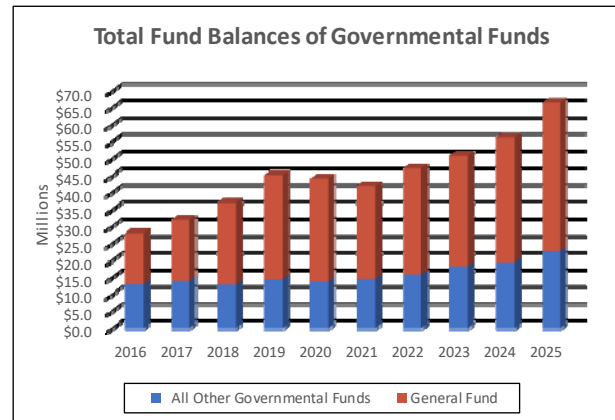
CITY OF BENICIA
CHANGES IN NET POSITION (CONTINUED)
LAST TEN FISCAL YEARS
(ACCRUAL BASIS OF ACCOUNTING)

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
GENERAL REVENUES AND OTHER CHANGES IN NET POSITION (CONTINUED)										
Business-Type Activities:										
Transfer Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 17,740	\$ 13,763	\$ 7,775	\$ 12,425
Sale of Capital Assets	-	-	-	-	-	-	-	3,172	5,650	35,575
Interest Earnings	313,557	85,824	190,670	932,701	1,019,886	116,440	(864,095)	1,262,567	2,219,185	2,724,142
Gain (Loss) from Disposal of Capital Assets	-	-	-	-	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	7,659	-	-	-	1,329
Transfers	(15,725)	209,275	(66,974)	251,091	739,382	250,000	3,053,020	1,387,000	1,549,152	268,881
Total Business-Type Activities	297,832	295,099	123,696	1,183,792	1,759,268	374,099	2,206,665	2,666,502	3,781,762	3,042,352
Total Primary Government	<u>\$ 37,442,333</u>	<u>\$ 36,656,142</u>	<u>\$ 41,611,544</u>	<u>\$ 43,522,983</u>	<u>\$ 43,522,167</u>	<u>\$ 42,844,489</u>	<u>\$ 44,243,473</u>	<u>\$ 52,510,890</u>	<u>\$ 54,879,127</u>	<u>\$ 64,391,295</u>
CHANGE IN NET POSITION										
Governmental Activities	\$ 1,852,312	\$ 1,480,554	\$ 6,607,359	\$ 4,723,196	\$ (2,173,436)	\$ (5,446,012)	\$ (64,907)	\$ 3,598,855	\$ 3,810,836	\$ 6,035,347
Business-Type Activities	1,211,350	1,855,290	1,683,887	3,906,558	4,993,633	5,691,180	9,723,390	2,296,597	6,792,956	7,916,452
Total Primary Government	<u>\$ 3,063,662</u>	<u>\$ 3,335,844</u>	<u>\$ 8,291,246</u>	<u>\$ 8,629,754</u>	<u>\$ 2,820,197</u>	<u>\$ 245,168</u>	<u>\$ 9,658,483</u>	<u>\$ 5,895,452</u>	<u>\$ 10,603,792</u>	<u>\$ 13,951,799</u>

CITY OF BENICIA
FUND BALANCES OF GOVERNMENTAL FUNDS
LAST TEN FISCAL YEARS
(MODIFIED ACCRUAL BASIS OF ACCOUNTING)

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
General Fund:										
Nonspendable	\$ 650,604	\$ 740,384	\$ 775,112	\$ 758,374	\$ 1,047,926	\$ -	\$ 243,122	\$ 293,739	\$ 230,678	\$ 173,445
Restricted	157,593	141,859	121,284	122,288	117,269	1,883	5,166,311	5,518,325	6,528,170	8,188,781
Committed	8,701,436	8,652,234	10,373,948	11,965,741	10,328,089	23,898,731	22,751,328	16,684,145	14,769,837	23,734,882
Assigned	1,702,927	1,841,497	1,968,851	4,224,570	12,056,452	1,045,261	1,019,176	5,633,585	3,594,675	977,000
Unassigned	3,909,481	6,750,750	10,919,089	13,644,315	6,955,200	2,474,692	2,029,372	4,503,737	11,550,262	10,689,506
Total General Fund	\$ 15,122,041	\$ 18,126,724	\$ 24,158,284	\$ 30,715,288	\$ 30,504,936	\$ 27,420,567	\$ 31,209,309	\$ 32,633,531	\$ 36,673,622	\$ 43,763,614
All Other Governmental Funds:										
Nonspendable	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Restricted	9,619,366	11,091,501	9,668,121	11,089,514	10,267,521	9,427,567	16,504,223	18,675,563	19,736,576	22,840,135
Committed	3,351,668	2,895,151	3,194,982	3,417,081	3,476,525	4,965,453	315,557	3,179	339,106	346,145
Assigned	-	-	-	-	-	177,365	174,209	178,851	-	-
Unassigned	(7,369)	(99,139)	-	-	(368)	-	(1,105,627)	(581,322)	(600,276)	(453,975)
Total All Other Governmental Funds	\$ 12,963,665	\$ 13,887,513	\$ 12,863,103	\$ 14,506,595	\$ 13,743,678	\$ 14,570,385	\$ 15,888,362	\$ 18,276,271	\$ 19,475,406	\$ 22,732,305

(a) The change in total fund balance for the General Fund and Other Governmental Funds is explained in the Management's Discussion and Analysis.



CITY OF BENICIA
CHANGES IN FUND BALANCE OF GOVERNMENTAL FUNDS
LAST TEN FISCAL YEARS
(MODIFIED ACCRUAL BASIS OF ACCOUNTING)

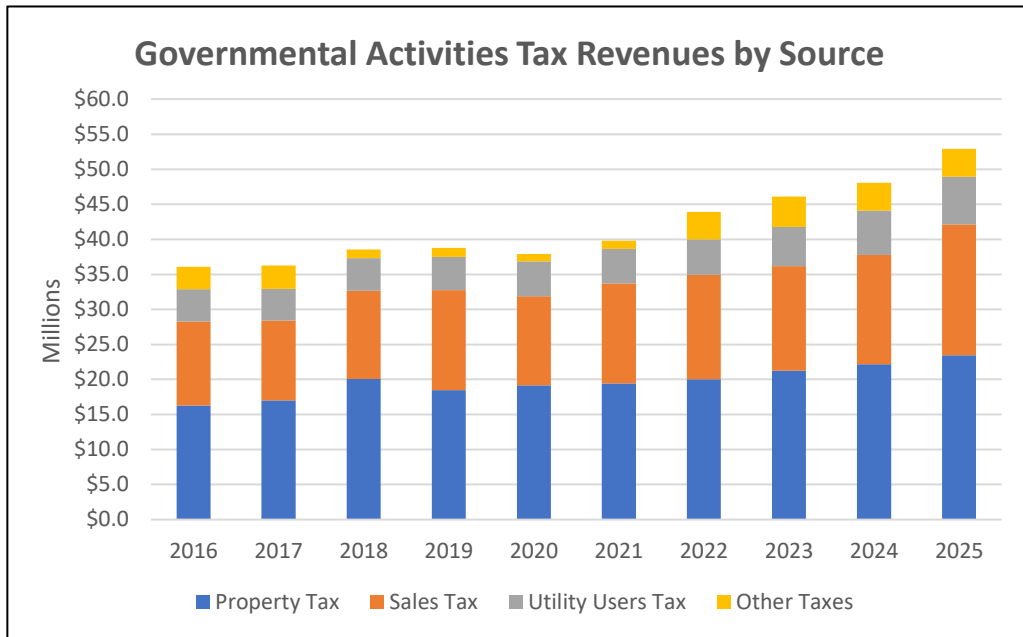
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
REVENUES										
Taxes	\$ 36,502,489	\$ 36,687,899	\$ 41,127,006	\$ 41,134,117	\$ 40,676,572	\$ 41,951,527	\$ 44,720,962	\$ 46,920,481	\$ 48,087,517	\$ 53,779,222
Licenses, Permits, and Fees	480,554	458,696	796,643	1,237,397	1,140,018	1,673,866	1,601,249	1,893,041	1,898,754	1,910,958
Fines and Forfeitures	102,280	112,172	202,246	291,761	214,966	144,923	132,734	164,823	122,264	192,544
Use of Money and Property	907,017	599,581	714,398	1,747,896	1,873,274	750,492	(684,343)	2,250,304	3,495,493	4,321,879
Intergovernmental Revenues	2,199,299	1,636,742	1,711,236	2,191,540	2,341,667	3,118,079	9,780,084	3,054,902	4,266,522	2,713,706
Charges for Services	2,282,367	2,165,041	2,572,513	2,655,387	3,818,765	4,299,764	4,623,695	5,769,644	6,485,042	7,013,291
Other	1,580,731	736,670	419,174	341,597	575,173	2,015,794	2,355,882	2,603,673	1,251,581	3,728,083
Total Revenues	44,054,737	42,396,801	47,543,216	49,599,695	50,640,435	53,954,445	62,530,263	62,656,868	65,607,173	73,659,683
EXPENDITURES										
Current:										
Administration	4,490,769	4,345,176	5,185,170	6,061,670	6,210,989	6,990,590	7,630,365	8,239,172	7,957,184	8,803,804
Community Development	1,508,851	1,439,367	1,556,053	1,568,105	1,796,456	12,801,267	2,796,817	3,230,495	3,231,767	4,244,468
Public Safety - Police	8,862,878	8,989,937	10,586,462	10,289,419	11,111,098	11,357,206	13,083,646	12,849,379	13,821,876	13,675,428
Public Safety - Fire	7,482,750	7,211,065	7,696,924	8,118,547	9,083,320	6,249,056	11,576,391	12,981,449	11,567,908	12,500,937
Parks and Community Services	5,520,405	5,758,553	5,728,426	5,896,771	6,292,245	3,240,684	6,840,793	6,746,334	6,164,137	4,514,237
Public Works	2,630,397	2,808,321	3,579,865	3,423,586	3,376,386	3,257,468	2,813,269	3,495,361	3,077,283	3,616,183
Library	2,175,008	2,215,440	2,401,567	2,344,057	2,466,483	2,805,536	2,604,343	2,747,648	2,803,994	5,427,577
Economic Development	744,460	720,893	624,625	532,241	824,558	1,353,459	1,016,689	1,174,240	668,249	690,427
General	528,144	25,710	42,926	65,749	2,010,213	2,540,879	2,413,153	2,375,734	3,935,660	3,650,569
Capital Outlay	2,067,089	5,546,128	4,038,173	2,196,953	3,878,460	3,503,975	8,083,211	3,485,455	4,175,395	3,013,662
Debt Service:										
Principal Repayment	991,759	819,648	927,689	599,674	271,942	643,659	863,468	1,175,023	1,308,660	1,078,907
Interest and Fiscal Charges	74,043	71,585	75,402	62,136	52,776	490,442	310,730	316,144	242,136	375,500
Lease Issuance Costs	-	-	-	-	-	-	-	3,596	-	-
Total Expenditures	37,076,553	39,951,823	42,443,282	41,158,908	47,374,926	55,234,221	60,032,875	58,820,030	58,954,249	61,591,699
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES	6,978,184	2,444,978	5,099,934	8,440,787	3,265,509	(1,279,776)	2,497,388	3,836,838	6,652,924	12,067,984
OTHER FINANCING SOURCES (USES)										
Transfers In	620,645	320,645	3,148,633	2,870,787	3,440,253	3,181,969	12,005,179	4,001,657	6,247,665	2,642,326
Transfers Out	(1,001,012)	(744,942)	(3,241,659)	(3,121,878)	(7,679,635)	(3,477,969)	(15,648,651)	(5,458,657)	(8,564,252)	(5,229,395)
Capital Lease Issued	318,837	1,907,850	-	-	-	-	-	-	-	-
Sale of Capital Assets	-	-	242	10,800	601	220	225	1,325	22,510	19,148
Lease Issuance	-	-	-	-	-	-	-	906,180	-	-
SBITA Issuance	-	-	-	-	-	-	-	524,788	880,379	-
Total Other Financing Sources (Uses)	(61,530)	1,483,553	(92,784)	(240,291)	(4,238,781)	(295,780)	(3,643,247)	(24,707)	(1,413,698)	(2,567,921)
NET CHANGE IN FUND BALANCES	<u>\$ 6,916,654</u>	<u>\$ 3,928,531</u>	<u>\$ 5,007,150</u>	<u>\$ 8,200,496</u>	<u>\$ (973,272)</u>	<u>\$ (1,575,556)</u>	<u>\$ (1,145,859)</u>	<u>\$ 3,812,131</u>	<u>\$ 5,239,226</u>	<u>\$ 9,500,063</u>
Debt Service as a Percentage of Noncapital Expenditures	3.0%	2.7%	2.7%	1.7%	0.8%	2.2%	2.0%	2.6%	2.7%	2.4%

Note:

(a) The City implemented GASB Statement 34 in fiscal year 2003.

**CITY OF BENICIA
GOVERNMENTAL ACTIVITIES OF TAX REVENUES BY SOURCE
LAST TEN FISCAL YEARS**

Fiscal Year	Property Tax	Sales Tax	Utility Users Tax	Other Taxes	Total
2016	16,254,148	12,040,536	4,594,385	3,185,756	36,074,825
2017	17,003,131	11,388,283	4,515,825	3,353,396	36,260,635
2018	20,040,594	12,604,790	4,642,195	1,238,623	38,526,202
2019	18,469,252	14,261,749	4,777,814	1,242,730	38,751,545
2020	19,157,225	12,708,340	5,002,314	1,035,906	37,903,785
2021	19,431,619	14,257,643	4,933,493	1,197,212	39,819,967
2022	20,030,819	14,885,983	5,066,048	3,915,892	43,898,742
2023	21,236,337	14,932,342	5,620,299	4,317,311	46,106,289
2024	22,164,925	15,614,725	6,337,745	3,970,122	48,087,517
2025	23,424,933	18,693,802	6,804,774	3,995,224	52,918,733



CITY OF BENICIA

ASSESSED AND ESTIMATED ACTUAL VALUE OF TAXABLE PROPERTY LAST TEN FISCAL YEARS

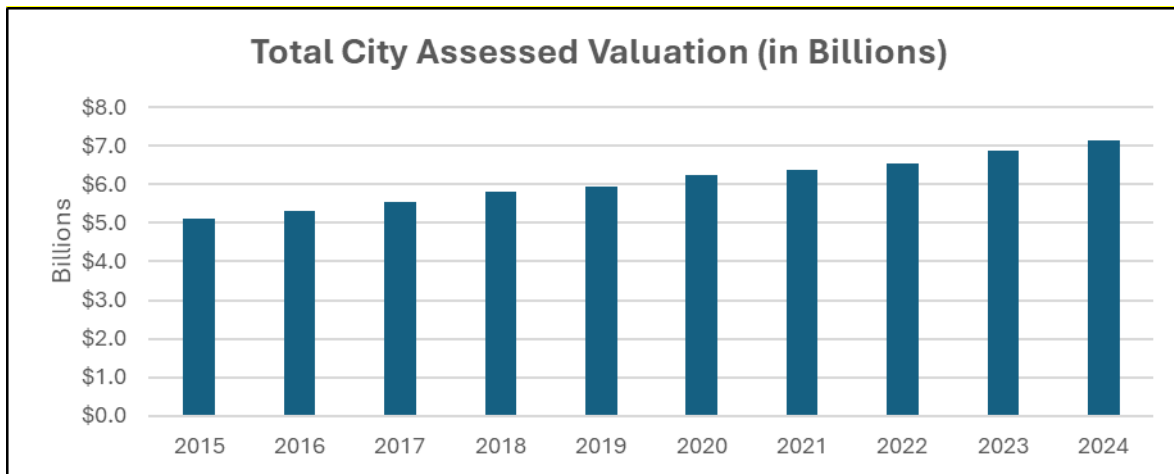
Fiscal Year	Real Property				Total Real Secured Property	Unsecured Property	Total Assessed (a)	Estimated Full Market (a)	Total Direct Tax Rate (b)
	Residential Property	Commercial Property	Industrial Property	Other					
2016	3,225,335,174	201,238,626	1,573,661,075	63,718,495	5,063,953,370	256,737,838	5,320,691,208	5,320,691,208	0.24918
2017	3,404,967,491	206,276,891	1,618,061,212	66,992,516	5,296,298,110	254,806,049	5,551,104,159	5,551,104,159	0.24918
2018	3,576,788,524	203,705,500	1,694,433,733	77,785,547	5,552,713,304	249,234,056	5,801,947,360	5,801,947,360	0.25950
2019	3,750,994,811	211,430,526	1,644,230,923	83,627,641	5,690,283,901	247,741,026	5,938,024,927	5,938,024,927	0.25934
2020	3,933,673,148	244,973,317	1,697,284,809	93,329,239	5,969,260,513	267,847,918	6,237,108,431	6,237,108,431	0.25982
2021	4,063,989,044	252,272,252	1,733,210,933	83,692,277	6,133,164,506	254,932,225	6,388,096,731	6,388,096,731	0.26628
2022	4,216,454,668	257,423,532	1,737,179,272	85,546,421	6,296,603,893	262,221,433	6,558,825,326	6,558,825,326	0.26086
2023	4,460,302,681	275,375,469	1,765,550,222	82,553,996	6,583,782,368	291,481,247	6,875,263,615	6,875,263,615	0.26095
2024	4,651,413,514	292,695,153	1,748,054,197	148,171,258	6,840,334,122	303,937,810	7,144,271,932	7,144,271,932	0.26488
2025	4,806,124,615	304,320,698	1,773,449,497	133,566,188	7,017,460,998	307,766,353	7,325,227,351	7,325,227,351	0.26937

Source: HDL, Asses Value of Taxable Property

(a) In 1978, the voters of the State of California passed Proposition 13 which limited taxes to a total maximum rate of 1%, based upon the assessed value of the property being taxed. Each year, the assessed value of the property may be increased by an "inflation factor" (limited to a maximum of 2%). With the few exceptions, property is only reassessed as a result of new construction activity or at the time it is sold to a new owner. At that point, the property is reassessed based upon the added value of the construction or at the purchase price (market value) or economic value of the property sold. The assessed valuation data shown above represents the only data currently available with respect to the actual market value of taxable property and is subject to the limitations described above.

(b) California cities do not set their own direct tax rate. The state constitution establishes the rate at 1% and allocates a portion of that amount, by an annual calculation, to all the taxing entities within a tax rate area.

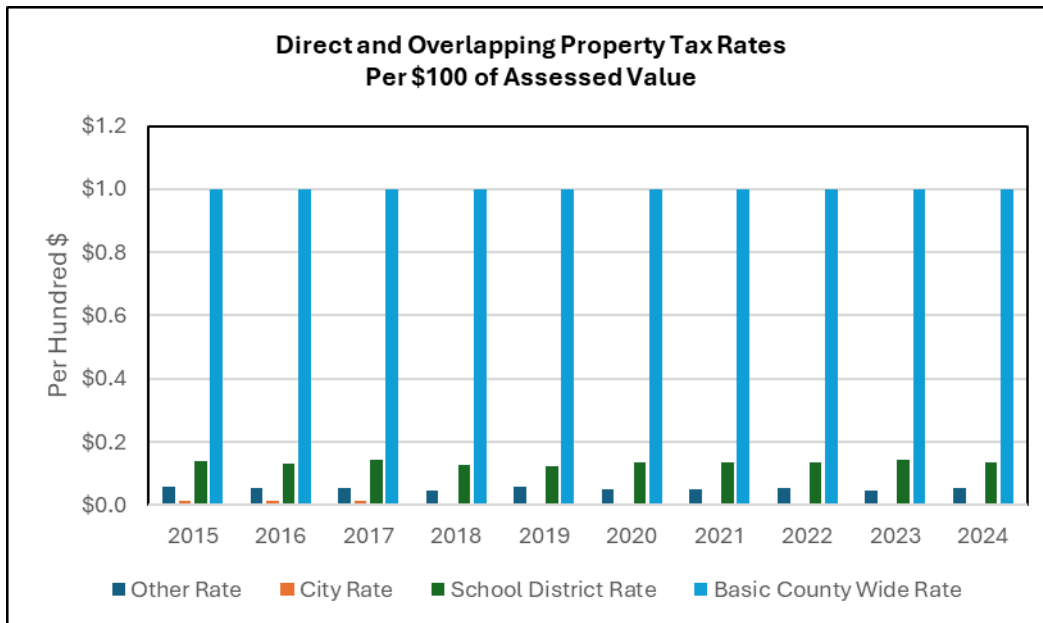
(c) Exempt values are not included in Total.



**CITY OF BENICIA
PROPERTY TAX RATES
CURRENT YEAR AND TEN YEARS AGO**

Fiscal Year	City Direct Rate	Overlapping Rates:				Total Direct Rate
		Basic County Wide Rate	School District Rate	City Rate	Other Rate	
2016	0.24918	1.0000	0.1318	0.0130	0.0549	1.1997
2017	0.24918	1.0000	0.1448	0.0125	0.0550	1.2123
2018	0.25950	1.0000	0.1259	0.0058	0.0444	1.1761
2019	0.25934	1.0000	0.1215	0.0000	0.0589	1.1804
2020	0.25982	1.0000	0.1356	0.0000	0.0520	1.1876
2021	0.26628	1.0000	0.1333	0.0000	0.0516	1.1849
2022	0.26086	1.0000	0.1355	0.0000	0.0531	1.1886
2023	0.26095	1.0000	0.1433	0.0000	0.0462	1.1895
2024	0.26488	1.0000	0.13558	0.0000	0.0527	1.18828
2025	0.26937	1.0000	0.14230	0.0000	0.0514	1.19373

Source: HdL Direct & Overlapping Property Tax Rates



**CITY OF BENICIA
PRINCIPAL PROPERTY TAXPAYERS
CURRENT YEAR AND TEN YEARS AGO**

Taxpayer	2024-2025			2015-2016		
	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value
Valero Refining Company California	\$904,421,839	1	12.35 %	\$996,092,520	1	18.72 %
Icon Owner Pool 1 SF NON BUSINESS	157,677,924	2	2.15	87,741,621	2	1.65
APS West Coast	89,346,613	3	1.22			
Tulloch Construction, Inc.	58,998,446	4	0.81	30,379,497	5	0.57
Benicia Partners LLC	40,827,375	5	0.56			
Cranbrook Realty Investment	34,023,326	6	0.46			
Gonzalves and Santucci, Inc.	33,271,071	7	0.45	24,765,204	7	0.47
WRI West Gate South LP	31,965,297	8	0.44	27,128,671	6	0.51
Benicia Industries, Inc.	30,366,462	9	0.41	72,764,455	3	1.37
Club Pacific LLC	28,067,914	10	0.38	23,739,587	8	0.45
Icon Owner Pool 1 SF N-B P LLC				35,517,859	4	0.67
BEBE Studio Realty LLC				21,060,168	9	0.40
Valley Fine Foods Company INC				17,199,199	10	0.32
Total	<u>\$ 1,408,966,267</u>		<u>19.23 %</u>	<u>\$ 1,336,388,781</u>		<u>25.13 %</u>
Total Net Assessed Valuation:						
Fiscal Year 2024-2025	\$ 7,325,227,651					
Fiscal Year 2015-2016	\$ 5,320,691,208					

Source: HdL, Top Ten Property Taxpayer

**CITY OF BENICIA
PROPERTY TAX LEVIES AND COLLECTIONS
LAST TEN FISCAL YEARS**

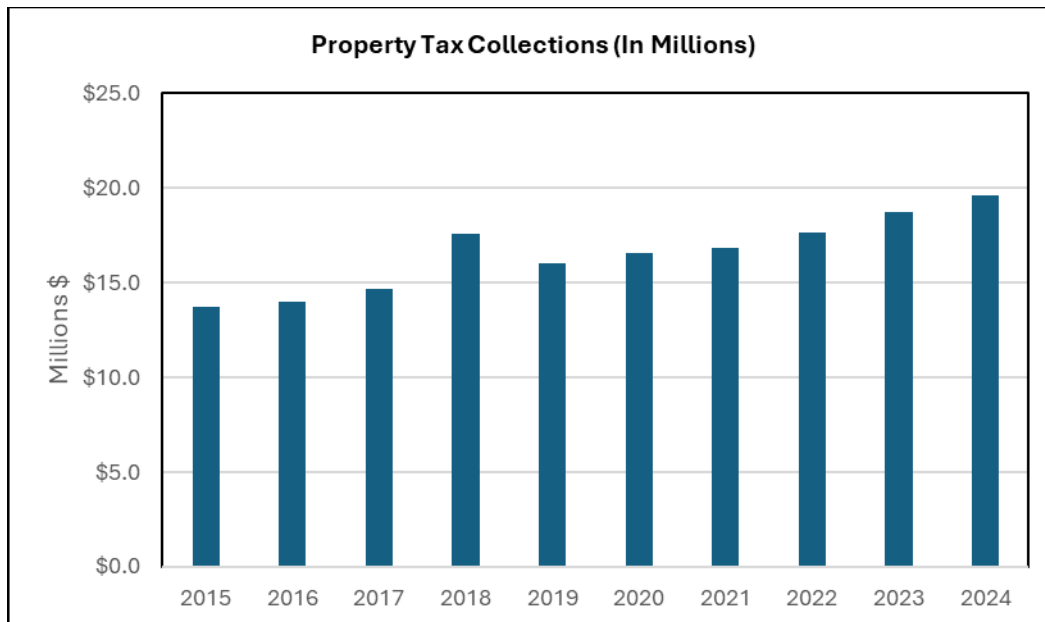
<u>Fiscal Year</u>		<u>Total Tax Levy (a)</u>	<u>Current Tax Collections</u>	<u>Percent of Levy Collected</u>	<u>Total Tax Collections</u>	<u>Percent of Total Tax Collections to Tax Levy</u>
2016	*	14,014,604	14,014,604	100.0000	14,014,604	100.0000
2017	*	14,665,965	14,665,965	100.0000	14,665,965	100.0000
2018	*	17,603,205	17,603,205	100.0000	17,603,205	100.0000
2019	*	15,992,768	15,992,768	100.0000	15,992,768	100.0000
2020	*	16,559,040	16,559,040	100.0000	16,559,040	100.0000
2021	*	16,830,426	16,793,682	99.7800	16,793,682	99.7800
2022	*	17,666,402	17,651,013	99.9100	17,651,013	99.9100
2023	*	18,773,071	18,724,379	99.7406	18,724,379	99.7406
2024	*	19,668,569	19,630,314	99.8055	19,630,314	99.8055
2025	*	20,956,307	20,657,097	98.5722	20,657,097	98.5722

Source: Solano County Auditor-Controller's Office

Note:

Current tax collections beginning in 1993 have been reduced by a mandatory tax reallocation imposed by the State of California.

* Information derived from City's collection from Solano County - under the Teeter Plan.



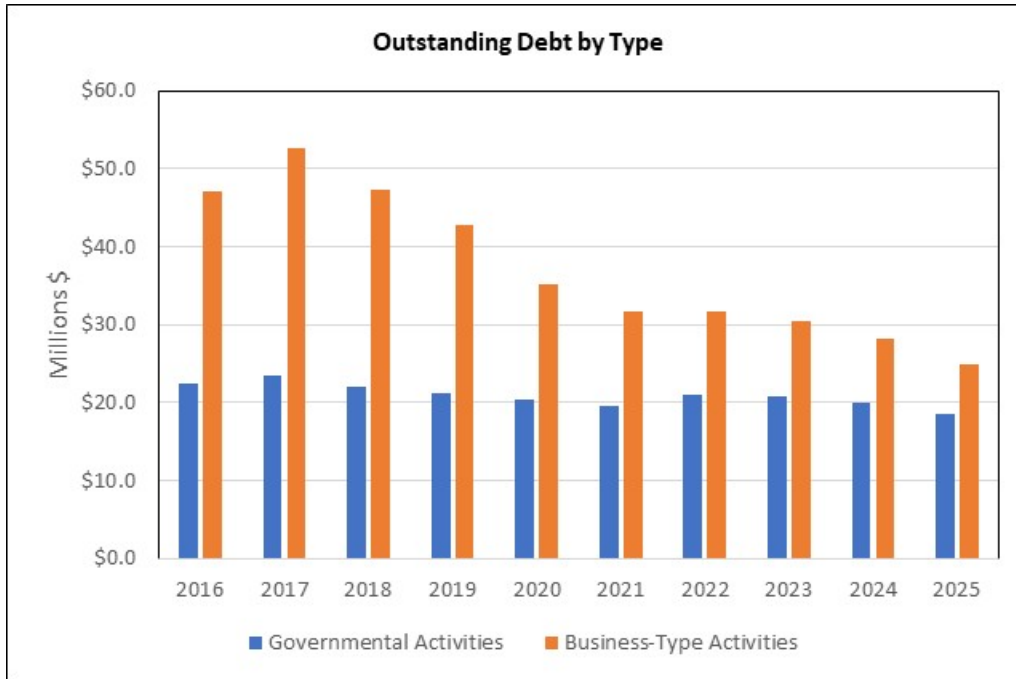
CITY OF BENICIA OUTSTANDING DEBT BY TYPE LAST TEN FISCAL YEARS

Governmental Activities							
Fiscal Year	General Obligation Bonds	Pension Obligation Bonds	Lease Obligation	Certificates of Participation	Lease Payable	SBITAs	Total
2016	\$ 1,660,000	\$ 8,826,105	\$ 922,322	\$ 11,071,101	\$ -	\$ -	\$ 22,479,528
2017	1,005,000	7,762,706	2,624,334	11,989,158	-	-	23,381,198
2018	335,000	7,701,537	2,324,037	11,753,834	-	-	22,114,408
2019	-	7,616,272	2,059,363	11,464,931	-	-	21,140,566
2020	-	7,505,307	1,787,428	11,131,028	-	-	20,423,763
2021	-	7,366,998	1,509,900	10,733,222	-	-	19,610,120
2022	-	7,199,630	1,220,521	10,364,319	2,153,050	-	20,937,520
2023	-	6,996,227	925,090	9,945,416	2,087,837	909,446	20,864,016
2024	-	6,759,600	620,738	9,471,513	2,020,824	1,195,974	20,068,649
2025	-	6,486,886	669,437	8,937,610	2,265,275	932,104	19,291,312

Business-Type Activities								Total Primary Government	Percentage of Personal Income (a)	Per Capita (a)
Fiscal Year	Water Revenue Bonds	Sewer Revenue Bonds	Loans Payable	Lease Purchase	Lease Payable	SBITAs	Total			
2016	1,754,631	1,439,452	21,355,786	-	-	-	24,549,869	47,029,397	3.93	1,710.10
2017	890,000	1,104,116	18,905,171	8,366,073	-	-	29,265,360	52,646,558	4.33	1,900.94
2018	-	753,777	16,397,150	7,993,313	-	-	25,144,240	47,258,648	3.82	1,718.56
2019	-	388,441	13,830,250	7,495,585	-	-	21,714,276	42,854,842	3.21	1,554.40
2020	-	-	7,804,956	6,985,229	-	-	14,790,185	35,213,948	2.47	1,295.82
2021	-	-	5,523,648	6,462,047	-	-	11,985,695	31,595,815	2.15	1,165.42
2022	-	-	4,877,782	5,925,588	-	-	10,803,370	31,740,890	2.14	1,195.05
2023	-	-	3,968,532	5,229,350	146,473	228,569	9,572,924	30,436,940	1.97	1,160.69
2024	-	-	3,032,228	4,705,869	105,383	266,399	8,109,879	28,178,527	1.71	1,082.42
2025	-	-	2,067,984	4,168,849	63,657	55,476	6,355,966	25,647,278	1.53	979.09

Sources: City of Benicia
HdL, Coren & Cone

(a) See page159 (Demographic Statistics) for personal income and population data.



**CITY OF BENICIA
RATIO OF OUTSTANDING GENERAL BONDED DEBT
LAST TEN FISCAL YEARS**

Fiscal Year	General Obligation Bonds	Pension Obligation Bonds	Total	Percentage of Actual Taxable Value of Property (1)	Per Capita (2)
2016	1,660,000	8,826,105	10,486,105	0.20	381.30
2017	1,005,000	7,762,706	8,767,706	0.16	316.58
2018	335,000	7,701,537	8,036,537	0.14	292.25
2019	-	7,616,272	7,616,272	0.13	276.25
2020	-	7,505,307	7,505,307	0.12	276.18
2021	-	7,366,998	7,366,998	0.12	271.73
2022	-	7,199,631	7,199,631	0.11	270.09
2023	-	6,996,227	6,996,227	0.11	267.24
2024	-	6,759,600	6,759,600	0.10	258.20
2025	-	6,486,886	6,486,886	0.10	247.64

Notes:

Details regarding the City's outstanding debt can be found in the notes to the financial statements.

(1) See Schedule of Assessed Value and Estimated Actual Value of Taxable Property for property value data.

(2) Population data can be found in the Schedule of Demographic and Economic Statistics.

**CITY OF BENICIA
 PLEDGED-REVENUE COVERAGE
 WATER REVENUE BOND
 LAST TEN FISCAL YEARS
 (AMOUNTS EXPRESSED IN THOUSANDS)**

Assessed Valuation:

Secured Property Assessed Value, Net of Exempt Real Property \$ 7,015,935,998

Bonded Debt Limit (3.75% of Assessed Value) (a) \$ 263,097,600

Amount of Debt Subject to Limit:

Total Bonded Debt \$ 15,424,496

Less: Revenue Bonds, Certificate of Participation Not Subject to Limit 15,424,496

Amount of Debt Subject to Limit -

Legal Bonded Debt Margin \$ 263,097,600

Fiscal Year	Debt Limit	Total Net Debt Applicable to Limit	Legal Debt Margin	Total Net Debt Applicable to the Limit as a Percentage of Debt Limit
2016	188,238,251	1,660,000	186,578,251	0.89
2017	197,606,179	1,005,000	196,601,179	0.51
2018	207,891,749	335,000	207,556,749	0.16
2019	213,385,646	-	213,385,646	0.00
2020	223,847,269	-	223,847,269	0.00
2021	229,993,669	-	229,993,669	0.00
2022	247,506,869	-	247,506,869	0.00
2023	-	-	-	0.00
2024	255,221,232	-	255,221,232	0.00
2025	263,097,600	-	263,097,600	0.00

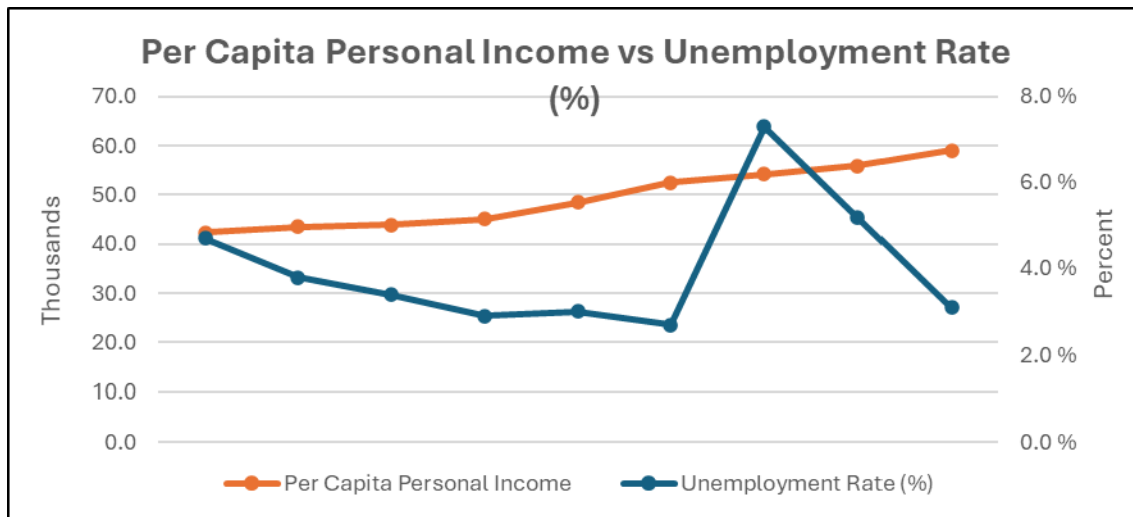
Note:

- (a) California Government Code, Section 43605 sets the debt limit at 15%. The Code section was enacted prior to the change in basing assessed value to full market value when it was previously 25% of market value. Thus, the limit shown as 3.75% is one-fourth the limit to account for the adjustment of showing assessed valuation at full cash value.

**CITY OF BENICIA
DEMOGRAPHIC AND ECONOMIC STATISTICS
LAST TEN FISCAL YEARS**

Fiscal Year	(a) City Population	Total Personal Income	Per Capita Personal Income	Unemployment Rate (%)	(a) County Population	City Population % of County
2016	27,501	1,197,916,059	43,559	3.8	430,315	6.39
2017	27,695	1,215,173,515	43,877	3.4	435,186	6.36
2018	27,499	1,238,197,473	45,027	2.9	436,813	6.30
2019	27,570	1,335,573,510	48,443	3.0	438,205	6.29
2020	27,175	1,426,660,325	52,499	2.7	439,211	6.19
2021	27,111	1,468,006,428	54,148	7.3	438,527	6.18
2022	26,656	1,490,710,144	55,924	5.2	451,716	5.90
2023	26,180	1,545,697,000	59,041	3.1	443,749	5.90
2024	26,033	1,650,004,000	63,381	3.6	446,426	5.83
2025	26,195	1,674,700,000	63,932	4.4	455,376	5.75

Sources: Census.gov
California Employment Development Department
HdL, Cohen & Cone

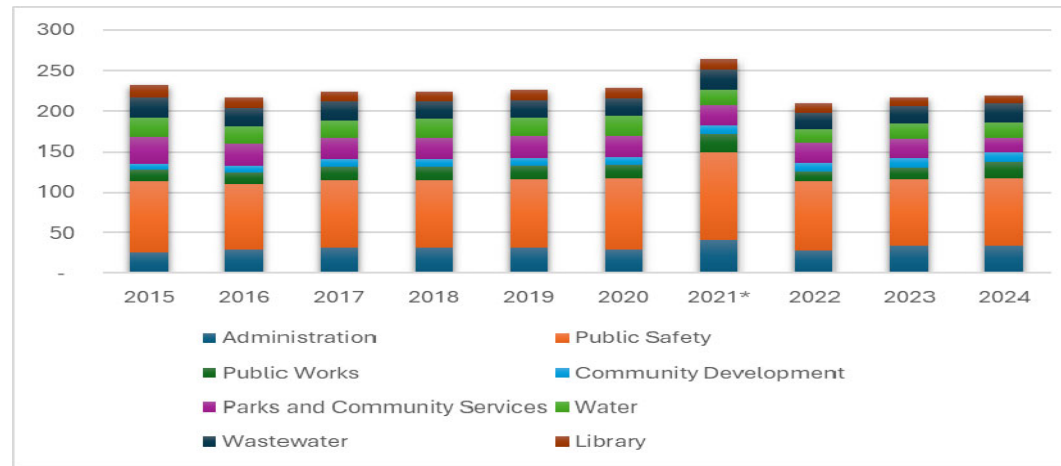


**CITY OF BENICIA
PRINCIPAL EMPLOYERS
CURRENT YEAR AND NINE YEARS AGO**

Employer	2024-2025				2015-2016		
	Number of Employees	Rank	Percentage of Total City Employment	Percentage of Total City Population	Number of Employees	Rank	Percentage of Total City Population
Valero	403	1	4%	1.5%	470	1	1.7%
Valley Fine Foods Co., Inc.	258	2	3%	1.0%			
Dunlop Manufacturing	231	3	2%	0.9%	229	3	0.8%
Pro-form Laboratories	217	4	2%	0.8%			
Rix Industries	189	5	2%	0.7%	97	10	0.4%
Reyes Coca-Cola Bottling Co.	184	6	2%	0.7%			
APS West Coast Inc.	117	7	1%	0.4%			
Pepsico Beverage Sales, LLC	104	8	1%	0.4%			
Central Coast Wine Co.	97	9	1%	0.4%			
Unico Mechanical Corp	96	10	1%	0.4%			
BCI Coca Cola Bottling Co.					162	7	0.6%
Bio-Rad Laboratories Inc.					200	5	0.7%
Cycle Gear Inc.					106	9	0.4%
Valley Fine Foods Co. Inc.					178	6	0.6%
City of Benicia					217	4	0.8%
Benicia Unified School District					375	2	1.4%
Benicia Fabrication & Machine					115	8	0.4%
Total	1,896		19%	7.2%	2,149		7.8%
Total City Day Population	26,195				27,450		

Source: City of Benicia Business Data, HdL

CITY OF BENICIA
FULL-TIME EQUIVALENT CITY GOVERNMENTAL EMPLOYEES BY FUNCTION
LAST TEN FISCAL YEARS



Function	2016	2017	2018	2019	2020	2021*	2022	2023	2024	2025
Administration	29.75	31.75	31.75	31.75	29.50	42.00	28.60	33.60	33.75	26.75
Public Safety	80.00	82.00	83.00	84.00	87.00	107.00	84.00	82.00	83.00	83.00
Public Works	14.75	17.75	16.70	16.70	16.70	22.00	13.00	15.00	21.00	25.00
Community Development	8.00	9.00	9.00	10.00	10.00	11.00	10.00	11.00	12.00	11.00
Parks and Community Services	27.00	26.00	26.00	26.00	26.00	26.00	25.00	24.00	17.00	14.00
Water	21.15	21.55	23.65	23.65	24.65	18.00	16.80	18.80	19.00	23.00
Wastewater	23.15	22.70	20.65	20.65	21.65	25.00	21.00	22.00	23.00	26.00
Library	12.75	12.75	12.75	12.75	12.75	12.00	10.00	10.00	10.00	10.00
Total	216.55	223.50	223.50	225.50	228.25	263.00	208.40	216.40	218.75	218.75

Source: City of Benicia

**CITY OF BENICIA
OPERATING INDICATORS BY FUNCTION/PROGRAM
LAST TEN FISCAL YEARS**

Function/Program	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Public Safety:										
Fire:										
Fire Calls for Service	2,465	2,579	2,523	2,524	2,831	2,660	2,897	3,048	3,048	3,140
Primary Fire Inspections Conducted (Estimate)	877	621	935	1,132	859	579	340	448	448	767
Police:										
Police Calls for Service ***	18,560	22,003	29,177	32,346	30,941	20,166	19,738	32,830	32,830	33,077
Law Violations:										
Physical Arrests (Adult and Juvenile)	671	704	741	695	450	363	462	538	538	780
Traffic Violations	758	1,525	1,545	1,338	713	430	715	1,526	1,526	2,108
Parking Violations	230	273	235	216	138	212	170	288	288	334
Public Works:										
Street Resurfacing (Miles)	-	7.0	6.7	8.6	1.2	5.13	4.1	2.2	2.2	2.0
Potholes Repaired *	644	6,288	3,132	7,156	1,437	288	329	240	240	233
Parks and Community Services:										
Community Services:										
Recreation Class Program **	1,180	1,132	1,331	1,340	982	665	759	829	829	971
Recreation Class Participants **	9,800	9,035	37,547	40,618	29,303	31,559	41,462	41,378	41,378	41,566
Library:										
Volumes in Collection ****	112,602	118,111	117,476	143,972	150,153	309,542	269,832	151,810	151,810	124,256
Total Volumes Borrowed	431,687	312,060	268,847	251,503	233,630	173,306	149,959	321,357	321,357	337,865
Water:										
Water Service Connections	9,687	9,710	9,522	9,542	9,739	9,639	9,668	9,685	9,685	9,679
Water Main Breaks	40	23	27	9	26	11	15	14	14	23
Average Daily Consumption (Thousands of Gallons)	2,593	2,687	3,165	3,089	3,116	3,454	3,083	2,772	2,772	2,922
Wastewater:										
Storm Drain Inlets	2,040	2,040	2,040	2,040	2,040	2,040	2,040	2,040	2,040	2,040
Sewer Service Connections	9,181	9,204	9,223	9,245	9,232	9,304	9,645	9,309	9,309	9,396
Sewer Main Blockages	14	10	6	13	12	9	10	15	15	15
Average Daily Treatment (Thousands of Gallons)	1,967	2,106	2,106	2,219	1,860	1,790	1,782	2,015	2,015	1,843

Source: City of Benicia

* Potholes repairs in prior years were stated in square miles or in cubic feet. Amounts now based on number of potholes regardless of size.

** In 2018, a new Point of Sale system was implemented in Parks and Recreation which allows for counting all participants in the drop-in program.

*** 2018-2019 includes dispatch calls for service received from Cal Maritime.

**** Includes physical and digital collection.

**CITY OF BENICIA
CAPITAL ASSET STATISTICS BY FUNCTION/PROGRAM
LAST TEN FISCAL YEARS**

Function/Program	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Public Safety:										
Fire Stations	2	2	2	2	2	2	2	2	2	2
Police Stations	1	1	1	1	1	1	1	1	1	1
Police Patrol Units	13	13	13	13	13	13	12	12	12	12
Public Works:										
Miles of Streets	97	97	97	97	97	96	97	97	97	97
Street Lights	2,232	2,358	2,358	2,358	2,358	2,232	2,360	2,360	2,360	2,360
Traffic Signals	11	11	11	11	11	11	11	11	11	11
Parks and Recreation:										
Community Services:										
City Parks	36	36	36	36	36	36	36	36	36	36
City Parks Acreage	214	214	214	214	214	214	214	214	214	214
Recreation Centers	2	2	2	2	2	2	2	2	2	2
Senior Citizen Centers	1	1	1	1	1	1	1	1	1	1
Regional Park Acreage	577	577	577	577	577	577	577	577	577	577
Library:										
City Libraries	1	1	1	1	1	1	1	1	1	1
Water:										
Miles of Water Mains	160	160	160	160	160	160	160	160	160	160
Fire Hydrants	1,452	1,452	1,452	1,452	1,452	1,452	1,452	1,452	1,452	1,452
Maximum Daily Capacity (Millions of Gallons)	12	12	12	12	12	12	12	12	12	12
Wastewater:										
Miles of Sanitary Sewers	150	150	153	153	153	153	153	153	153	153
Miles of Storm Drains	78	78	78	78	78	78	78	78	78	78
Number of Treatment Plants	1	1	1	1	1	1	1	1	1	1

Source: City of Benicia



**CITY OF BENICIA
CORRECTIVE ACTION PLAN
YEAR ENDED JUNE 30, 2025**

City of Benicia respectfully submits the following corrective action plan for the year ended June 30, 2025.

Audit period: July 1, 2024 - June 30, 2025

The findings from the schedule of findings and questioned costs are discussed below. The findings are numbered consistently with the numbers assigned in the schedule.

FINDINGS—FINANCIAL STATEMENT AUDIT

MATERIAL WEAKNESS

2025-001 Restatement of Beginning Fund Balance

Recommendation: We recommend that the City implement periodic reviews and reconciliations of accrued liability accounts to ensure balances are supported by valid obligations as of year-end. In addition, management should establish procedures to distinguish between estimated accruals and actual claims incurred for self-funded benefit programs.

Explanation of disagreement with audit finding: There is no disagreement with the audit finding.

Action taken in response to finding: Management agrees with the auditor's recommendation and has implemented procedures to regularly reconcile liability accounts. Management's implementation of this practice is what led to identification and resolution of the overstated liability in the current year.

Name(s) of the contact person(s) responsible for corrective action: Jeff Tschudi, Finance Director

Planned completion date for corrective action plan: September 30, 2026



**CITY OF BENICIA
SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
YEAR ENDED JUNE 30, 2025**

City of Benicia respectfully submits the following summary schedule of prior audit findings for the year ended June 30, 2025.

Audit period: July 1, 2023 – June 30, 2024

The findings from the prior audit's schedule of findings and questioned costs are discussed below. The findings are numbered consistently with the numbers assigned in the prior year.

FINDINGS—FINANCIAL STATEMENT AUDIT

2024 – 001 Material Weakness in Internal Control over Accounts Receivable Reconciliations

Condition: Accounts receivable in the Water and Sewer funds included accruals from prior years that had not been reversed, resulting in a difference between the general ledger and the City's utility billing aging reports.

Status: Corrective action was taken.

2024 – 002 Material Weakness in Internal Control over Accounting for Leases and SBITAs

Condition: The City did not establish procedures to fully implement GASB Statement No. 87, Leases and GASB Statement No. 96, Subscription Based Information Technology Arrangements. While the City contracted out with a service provider, Debtbook, to provide software and other tools to assist the City with the analysis and calculations of its lease and subscription accounts, the City did not perform thorough reviews of the results.

Status: Corrective action was taken.

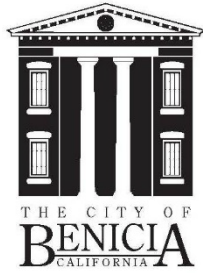
2024 – 003 Material Weakness in Internal Control over Schedule of Expenditures of Federal Awards

Condition: During our audit of the City's Schedule of Expenditures of Federal Awards (SEFA) for the fiscal year ended June 30, 2024, we identified that the City included non-federal expenditures totaling \$679,509 in the SEFA.

Status: Corrective action was taken.

FINDINGS— FEDERAL AWARD PROGRAMS AUDITS

There were no federal award program audit findings in the prior year.



**AGENDA ITEM
CITY COUNCIL MEETING DATE – MAY 5, 2026
BUSINESS ITEMS**

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF LIST OF STREETS FOR 2027 CITYWIDE
PAVEMENT REHABILITATION PROJECT TO RECEIVE
MEASURE F AND FY 26/27 SENATE BILL 1 ROAD
MAINTENANCE AND REHABILITATION ACCOUNT FUNDING**

EXECUTIVE SUMMARY:

This business item includes a presentation to inform the Benicia City Council on the City's ongoing plan to improve the condition of the City's roadways. The presentation will discuss the existing condition of the City's road network, projected funding available for road maintenance and rehabilitation, the proposed streets list for the 2027 Citywide Pavement Rehabilitation Project (Project), the proposed City of Benicia Pavement Zones Map, and a tentative 5-year (2026-2030) road maintenance plan.

RECOMMENDATION:

Move to adopt a resolution (Attachment 1) approving the List of Streets (Project List) for the 2027 Citywide Pavement Rehabilitation Project (Exhibit A).

BUDGET INFORMATION:

The Recommendation will allow the City to receive an estimated \$759,881 in FY 26/27 of Road Maintenance and Rehabilitation Account (RMRA) funding from the California Transportation Commission (CTC). The revenue is budgeted in Streets Fund 311. The project budget is included in the adopted budget.

BACKGROUND:

The City of Benicia operates and maintains 198 lane miles (98 centerline miles) of roadways that connect commuters safely in, out and around the City. This amounts to approximately 390 acres of paved surface. The condition of Benicia's road network has been declining in recent decades. The average pavement condition index (PCI) of Benicia's roadways is 52 out of 100, or fair.

Road Maintenance and Rehabilitation Funding

Staff estimates that approximately \$5 to 5.5 million per year will be available for road maintenance and rehabilitation in the coming years. Road maintenance funding comes from a variety of sources:

Measure F

In November 2024, voters approved Measure F, a 0.5% sales tax on retail purchases. Revenue from Measure F (Fund 312) will be earmarked exclusively for repairing Benicia's streets, potholes, and sidewalks. The tax went into effect on April 1, 2025, and was projected to generate \$4 million annually. The first project utilizing Measure F funds will be the 2026 Citywide Pavement Rehabilitation Project.

SB1

In April 2017, the California State Senate passed Senate Bill 1, the Road Repair and Accountability Act of 2017 (SB1), which the Governor subsequently signed. SB1 increased the per gallon excise fuel taxes, diesel fuel sales taxes, vehicle inspection registration fees, and provides inflationary adjustments to tax rates in future years to fund road maintenance and repair.

In January 2018, the State Controller began depositing portions of SB1 funding into the newly created Road Maintenance and Rehabilitation Account. RMRA funds are apportioned by formula to eligible cities and counties for basic road maintenance rehabilitation and critical safety projects on the local streets and roads system. The City of Benicia is projected to receive \$759,881 in FY 26/27 of RMRA funding (Streets Fund 312).

To receive RMRA funding, the City must submit a Project List to the CTC each year. For FY 26/27, the Project List must be submitted to the CTC by July 1, 2026.

Franchise Fees

Republic Services provides a Vehicle Impact Fee of approximately \$200,000 to the City each year as part of the franchise agreement.

Road Maintenance and Rehabilitation Plan

Staff have developed a long-term pavement maintenance strategy that will allow for treatment of every residential street in the City within approximately 12 years, bringing the network PCI above 70. This plan was previously presented at the May 6, 2025, meeting of the Benicia City Council.

Pavement Zones

To maximize design and construction efficiency of future paving projects and to minimize construction disruption to the City's residents and visitors, Staff has separated the City's residential streets into 24 pavement zones (Attachment 2). The pavement zones are geographic areas that are bounded by arterials and collectors (major roadways). Zones include between 300,000 to 500,000 square feet of pavement. The estimated cost to treat each pavement zone is dependent on the pavement area and the condition of the streets within the zone. This cost presently ranges from \$250,000 (Zone 9) to \$3,450,000 (Zone 14) because of the highly variable condition of our residential streets.

Each year, two to four pavement zones will be selected for treatment. Zones will be selected based on pavement conditions, proximity to other selected zones (i.e. to avoid adjacent zones), potential conflict or integration with planned public works projects (i.e.

underground utility replacements), and other factors in order to maximize project benefit. Every zone must receive treatment before any zones are selected for re-treatment. Approximately \$1 million per year will be dedicated to maintaining major roadways that aren't included in the residential pavement zones.

2026 Citywide Pavement Rehabilitation Project

The 2026 Citywide Pavement Rehabilitation Project streets list was approved by the Benicia City Council on May 6, 2025, and includes Zone 7, Zone 17, Cambridge Dr (from Rose Drive to Hastings Drive), and Rose Drive (from Columbus Parkway to Palace Court / Bolton Circle). The construction contract is bidding in May 2026, and construction is anticipated to begin in June 2026. The estimated cost of the 2026 Citywide Pavement Rehabilitation Project is \$5 million.

2027 Streets List

The residential pavement zones proposed for the 2027 Citywide Pavement Rehabilitation Project are Zone 2, arterials/collectors within Zone 2, and Zone 20. The 5-year plan presented to Council on May 6, 2025, listed Zone 13 in the 2027 Project and Zone 20 in the 2028 Project. Staff have switched the construction year for these zones to accelerate a Safe Routes to School Project and associated grant application at Joe Henderson Elementary School, which will run concurrently with the Zone 20 pavement work.

5-Year Plan

The tentative plan for years 2026 through 2030 is shown in the table below. This plan is not included in the Resolution and may change depending on roadway decay, funding, utility inspections, or other unforeseen circumstances. This 5-year plan includes treatment of 12 residential zones (50% of residential zones) and 6.3 million square feet of pavement (37% of the City's pavement). This plan would put the City in a position to treat all residential streets within a 12-year period.

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2026*	Zone 6 Zone 17 Cambridge (Rose to Hastings) Rose (Columbus to Palace/Bolton)
2027**	Zone 2 Zone 20 Arterials/collectors within Zone 2 Hastings Drive (Rose to Solano) Solano Drive (Rose to Larkin)
2028	Zone 3 Arterials/collectors within Zone 3 1 st Street Zone 13
2029	Zone 7 West 7 th Street (Military to 780) Zone 1 Zone 23 McAllister (Rose to Arguello) Kearney (Rose to Arguello)
2030	Zone 14 Zone 4 Turner (Southampton to Larkin) Zone 16

NEXT STEPS:

If the Council adopts the resolution, staff will submit the FY 26/27 Project List to CTC and be eligible to receive RMRA funding from SB1 for roadway projects. Following the design and bidding phases, staff will return to the Council to request authorization to award a construction contract and proceed with the construction of the Project prior to construction in 2027.

ALTERNATIVE ACTIONS:

Council could choose to direct staff to change the list of streets.

CEQA Analysis	This project is Categorically Exempt per CEQA Section 15301 (c), which applies to repair and maintenance of existing roadways.

ATTACHMENTS:

1. Resolution - List of Streets - 2027 Citywide Pavement Rehab Project – FY 26/27 RMRA Funding
Exhibit A – 2027 Citywide Pavement Rehab Project – List of Streets
2. City of Benicia Pavement Zones Map

For more information contact: Danielle Martinez, Public Works Director
Phone: 707-746-4240
E-mail: PW@ci.benicia.ca.us

RESOLUTION NO. 26-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE LIST OF STREETS FOR THE 2027 CITYWIDE PAVEMENT REHABILITATION PROJECT TO RECEIVE MEASURE F AND FY 26/27 SENATE BILL 1 ROAD MAINTENANCE AND REHABILITATION ACCOUNT FUNDING

WHEREAS, in November 2024, Benicia voters approved Measure F, a 0.5% sales tax on retail purchases that will be used to repair and maintain Benicia's streets and sidewalks; and

WHEREAS, Senate Bill 1: the Road Repair and Accountability Act of 2017 (SB1)(Chapter 5, Statutes of 2017), was passed by the Legislature and signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the project proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt by resolution a List of Streets (Project List) (Exhibit A) proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City will receive an estimated total of \$759,881 in RMRA funding from SB1 for FY 26/27; and

WHEREAS, SB1 funding will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB1; and

WHEREAS, the City has undergone a robust public process to ensure public input into our community's transportation priorities/the Project List; and

WHEREAS, the City used a Pavement Management System to assist in the development the Project List to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community's priorities for transportation investment; and

WHEREAS, the funding from SB1 will help the City maintain and rehabilitate streets/roads throughout the City this year and into the future; and

WHEREAS, to be eligible to receive its SB1 allocation, each local agency must adopt and file with the California Transportation Commission an annual list of qualifying projects to which the agency may direct these revenues; and

WHEREAS, the City's pavement management database indicates that the City's streets and roads are in "fair" condition with an average Pavement Condition Index of 52 and this revenue will help us increase the overall quality of our road system; and

WHEREAS, the Project List and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices will have significant positive co-benefits statewide.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby approve the List of Streets for the Project to receive FY 26/27 Senate Bill 1 Road Maintenance and Rehabilitation Account Funding.

BE IT FURTHER RESOLVED that the City Council of the City of Benicia does hereby approve that the following project will be funded in part with FY 26/27 RMRA:

Project Title: 2027 Citywide Pavement Rehabilitation Project

Project Description: Rehabilitate the pavement by using appropriate treatment methodology depending on the condition of the pavement.

Project Location: Pavement Zone 2, arterials/collectors within Zone 2, Zone 20, Hastings Drive (Rose to Solano), and Solano Drive (Rose to Larkin) (location detail in Exhibit A)

Estimated Project Schedule: Start: 06/2027; Completion: 9/2027.

Estimated Project Useful Life: 15 to 20 years.

BE IT FURTHER RESOLVED that the City Council of the City of Benicia does hereby approve that the attached City of Benicia Pavement Zones Map.

On motion of Council Member, seconded by Council Member, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of May 2026 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Exhibit A
2027 Citywide Pavement Rehabilitation Project List of Streets
[see next page]

Exhibit A**City of Benicia**

List of Streets for 2027 Pavement Rehabilitation Project

Street Name	Segment Start	Segment End	Avg. PCI	Repair Type	Area (Sq. Ft.)
Zone 2			59	Varies	858,903
East 2nd St.	s/o E-B St.	n/o E-D St.			
East 2nd St.	n/o E-H St.	s/o E-K St.			
East 2nd St.	s/o Military E	n/o East L St			
East 2nd St.	s/o E-H St.	s/o E-F St.			
East 2nd St.	n/o E-D St.	n/o E-F St.			
East 3rd St.	s/o Military East	n/o E-L St.			
East 3rd St.	s/o E-H	n/o E-I			
East 3rd St.	n/o E_I	s/o E-J			
East 3rd St.	n/o E-J St.	s/o E-K St			
East 3rd St.	n/o E-K St	s/o E-L St			
East 4th St.	s/o Military East	n/o E-L St.			
East 4th St.	s/o E-J St.	n/o E-H St.			
East B St.	e/o 1st St.	End			
East D St.	e/o 1st St.	w/o E-2nd St.			
East E St.	e/o 1st St.	300' e/o 1st St.			
East E St.	e/o E-2nd St.	w/o E-5th St.			
East F St.	e/o 1st St.	e/o E-2nd St.			
East G St.	e/o 1st St.	w/o E-2nd St.			
East G St.	w/o E-5th St.	300' w/o E-5th St.			
East H St.	e/o First St.	e/o E-2nd St.			
East H St.	e/o E-2nd St.	w/o E-4th St.			
East H St.	w/o E-4th St.	w/o E-5th St.			
East I St.	e/o E-1st St.	w/o E-2nd St.			
East I St.	350' e/o E-2nd St.	w/o E-3rd St.			
East I St.	e/o E-3rd St.	w/o E-4th St.			
East I St.	e/o E-4th St.	w/o E-5th St.			
East J St.	e/o 1st St.	w/o E-2nd St.			
East J St.	e/o E-2nd St.	w/o E-3rd St.			
East J St.	e/o E-3rd St.	w/o E-5th St.			
East K St.	e/o 1st St.	w/o E-3rd St.			
East K St.	e/o E-3rd St	Cul de sac			
East K St.	Cul de Sac	w/o E-5th St			
East L St.	e/o 1st St.	w/o E-2nd St.			
East L St.	e/o E-2nd St.	w/o E-5th St.			

Zone 20			42	Varies	393,600
Alder Ct.	s/o Poppy Circle	300' s/o Poppy Circle			
Buckeye Ct.	n/o Solano Dr.	250' n/o Solano Dr.			
Camellia Ct.	e/o Hastings Dr.	600' e/o Hastings Dr.			
Cypress Ct.	n/o Sweetbrier Ln.	150' n/o Sweetbrier Ln.			
Fuchsia Dr.	w/o Hastings Dr.	e/o Solano Dr.			
Gardenia Ct.	w/o Solano Dr.	300' w/o Solano Dr.			
Greenbrier Ct.	s/o Solano Dr.	450' s/o Solano Dr.			
Hastings Dr.	s/o Rose Dr.	n/o Solano Dr.			
Hawthorne Ln.	n/o Solano Dr.	n/o Lilac Ct.			
Heather Ct.	s/o Solano Dr.	200' s/o Solano Dr.			
Iris Ct.	e/o Toyon Pl.	150' e/o Toyon Pl.			
Laurel Ct.	s/o Sweetbrier Ln.	200' s/o Sweetbrier Ln.			
Lilac Ct.	e/o Hawthorne Ln.	225' e/o Hawthorne Ln.			
Lupine Ct.	s/o Solano Dr.	425' s/o Solano Dr.			
Myrtle Ct.	w/o Hawthorne Ln.	200' w/o Hawthorne Ln.			
Orchid Ct.	w/o Hastings Dr.	550' w/o Hastings Dr.			
Poppy Circle	w/o Solano Dr.	w/o Solano Dr.			
Sage Ct.	n/o Solano Dr.	150' n/o Solano Dr.			
Solano Dr.	n/o Larkin Dr.	s/o Rose Dr.			
Sorrel Ct.	s/o Solano Dr.	150' s/o Solano Dr.			
Sweetbrier Ln.	w/o Hastings Dr.	e/o Solano Dr.			
Toyon Pl.	s/o Sweetbrier Ln.	e/o Solano Dr.			
Willow Ct.	s/o Solano Dr.	575' s/o Solano Dr.			
Wisteria Ct.	n/o Fuchsia Dr.	275' n/o Fuchsia Dr.			
Zinnia Ct.	w/o Hastings Dr.	475' w/o Hastings Dr.			

Totals

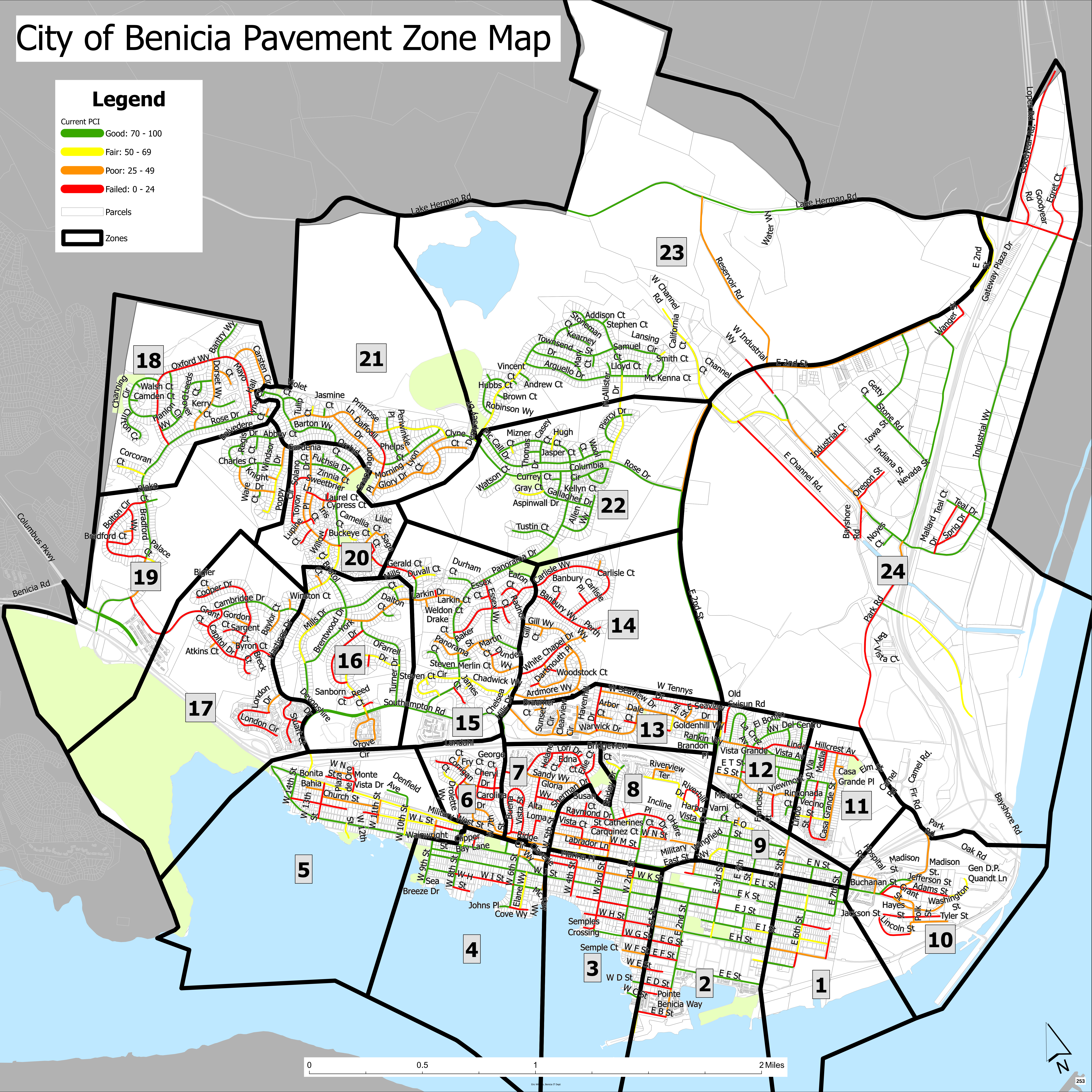
1,252,503

City of Benicia Pavement Zone Map

Legend

- Current PCI
- Good: 70 - 100
 - Fair: 50 - 69
 - Poor: 25 - 49
 - Failed: 0 - 24

- Parcels
- Zones





**AGENDA ITEM
CITY COUNCIL MEETING DATE – MAY 5, 2026
BUSINESS ITEM**

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **DISPOSITION AND DEVELOPMENT AGREEMENT FOR BENICIA SENIOR AFFORDABLE HOUSING (“SENIOR CENTER SITE” NEAR AND AT 187 EAST L STREET AND THE VACANT PARCEL AT THE NORTHEAST CORNER OF EAST 4TH AND EAST L STREETS)**

EXECUTIVE SUMMARY:

The proposed Disposition and Development Agreement (“DDA”) for the Benicia Senior Affordable Housing project sets the terms of the site development and land disposition (sale) to the affordable housing developer, Eden Benicia Senior Investors, LP (“Eden Housing”). The requested action would authorize the City Manager to execute the DDA on behalf of the City of Benicia. The DDA contemplates and would facilitate future construction of at least 90 units of affordable housing for ages 55+, a new senior center (“cold shell” to be provided by Eden Housing), public promenade, and parking facilities on lands currently owned by the City of Benicia. The Planning Commission found the DDA consistent with the Benicia General Plan and recommended approval of the DDA on April 9, 2026.

RECOMMENDATION:

Adopt the resolution approving the DDA for the Benicia Senior Affordable Housing project located at the vicinity of the Benicia Senior Center/Parking lot (“Senior Center Site” near and at 187 East L Street) and the vacant parcel at the northeast corner of East 4th and East L Streets (“Scout Property”) and authorizing the City Manager to execute the DDA.

BUDGET INFORMATION:

The DDA sets the terms of the land disposition, including sale price (\$1) and assignment of responsibility for costs and improvements.

Per the DDA, the developer will reimburse the City for legal services costs to negotiate and prepare the DDA and related implementing agreements. The City will incur direct and indirect costs through various stages of permit review and inspection, which will be recovered pursuant to the City’s Master Fee Schedule.

The City has partnered with the developer in seeking \$3.25 million of grant funding to offset construction costs for the interior buildout of a new Senior Center and public

promenade. If grant funds are awarded, the City will incur indirect costs to administer the grant(s) which may be recoverable as administrative costs, in whole or part, based on the grant terms.

At this time, no budgetary action is requested.

BACKGROUND:

The City of Benicia's certified Housing Element identifies various actions that the City will take ("programs") to advance housing production, preserve and support new affordable housing supply and ensure housing for all Benicians. Program 1.16 of the Housing Element identifies nine city-owned sites to be made available for housing development during planning period, 2023-2031. In 2023, the City Council adopted Ordinance No. 23-3 rezoning these sites and other housing opportunity sites identified in the Housing Element to allow for housing development.

In 2024, the City advanced three sites – the Scout Property (Site 1), Senior Center and Adjacent Land (Site 13), the Fire Museum (Site 32) -- for disposition in accordance with the Surplus Land Act (SLA). The City complied with SLA requirements for Site 32, but no qualified housing developer was identified for that location.

Site 1 (Scout Property) was offered for disposition following completion of the "small parcel exemption" under Government Code section 54221(f)(1)(B) for lots smaller than 0.5 acres that are not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes. A request for proposals (RFP) was issued for a 90-day period from January to April 2025.

Site 13 (Senior Center Site) was declared Exempt Surplus pursuant to Government Code section 54221(f)(1)(F) by the City Council on October 29, 2024 (Resolution No. 24-119). On December 5, 2024 the State Department of Housing and Community Development ("HCD") notified the City that HCD found that the Senior Center Site qualifies as exempt surplus land under Government Code Section 54221(f)(1)(F). The RFP for this site was issued concurrently with the Scout Property RFP for a 90-day period from January to April 2025.

In June 2025, Eden Housing was the responsive bidder selected for "scattered site development" of both the Scout Property and Senior Center sites. The City has worked with Eden Housing since that time concerning the project concept and terms of site disposition.

[This space intentionally left blank]

Figure 1 – Location Map



About the Benicia Senior Affordable Housing Development

The Benicia Senior affordable housing development would provide 100% affordable housing for older adults (age 55+) as well as resident and public parking, replacement of the Senior Center (cold shell supplied by Eden Housing and City to complete interior buildout) and a new outdoor recreation feature (“Promenade”) on approximately 2.75 acres total. The City received a Preliminary Housing Application for the project pursuant to SB 330 on April 22, 2026; at this time, no development application has been received.

The Scout Property would be developed with one structure containing affordable housing units and one manager’s unit.

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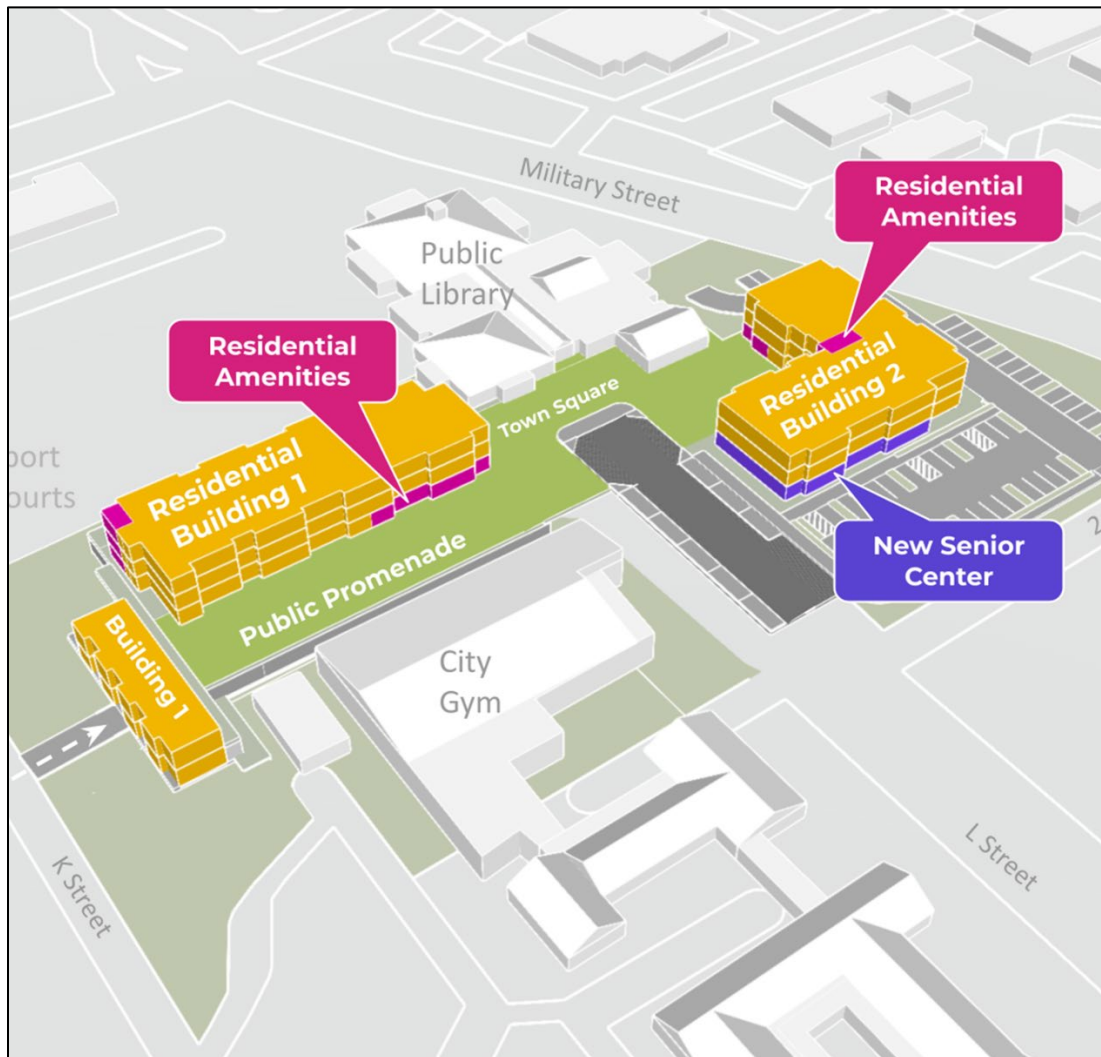
Figure 2 – Scout Site Massing Diagram



The Senior Center Site would be developed with two residential buildings which provide affordable housing units and one manager's unit. At the location of the current Senior Center on the north side of East L Street, the residential building would include a ground floor senior center of approximately 6000 square feet, along with surface parking for both residents and the community. The Senior Center would be independently built-out, owned and operated by the City in perpetuity. Vehicular access to the existing library parking and loading area would be maintained. At the location of the Library Parking Lot, on the south side of East L Street, a residential building would be constructed above podium parking. The two buildings would be connected by a landscaped Promenade of approximately 19,000 square feet which would provide a location for passive and active outdoor activities.

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Figure 3 – Senior Center Site Massing Diagram



The project would provide dedicated resident parking as well as one-to-one replacement of parking at the Senior Center Site. The project would identify two locations for installation of public art at the Senior Center Site, to be determined as part of project approvals.

Public Engagement

Eden Housing and their design partner, Architect FORA and Engage FORA, have coordinated closely with the Community Services Department and Senior Center to understand community needs and preferences for recreational facilities and programming. Community outreach was conducted in December 2025 to share information and receive feedback that will influence the project design. An additional opportunity was held on April 30, 2026. Eden Housing has launched a project webpage that summarizes outreach activities and community feedback and will be updated with new information moving forward: www.beniciaseniorhousing.com.

About the DDA

The DDA details the terms of the City's disposition of the Senior Center site and the Scout Property (collectively the "site") to Eden Housing, including the purchase and sale of the site, escrow, and closing. The DDA provides a framework for site development including the specific improvements on each portion of the site, necessary project approvals, timeline of performance and construction details. In addition, it outlines covenants, restrictions and agreements including terms of affordability, marketing and management of units. The DDA has numerous attachments, including a Schedule of Performance, Affordable Housing Agreement & Declaration of Restrictive Covenants, Grant Deed and Certificate of Completion.

The Planning Commission reviewed the DDA for consistency with the General Plan at their meeting of April 9, 2026.¹ No members of the public provided comment. The Planning Commission adopted Resolution No. 26-1 recommending approval of the DDA by a vote of 7-0.

NEXT STEPS:

If the DDA is approved, the City will continue to work with Eden Housing towards the necessary steps to receive/consider a development application and complete the site disposition.

ALTERNATIVE ACTIONS:

The Council may choose not to approve the DDA.

CEQA Analysis	The proposed disposition of the Senior Center sites and the Scout Property implement the Housing Element and are covered by the Environmental Impact Report (SCH Number 2022060021) (EIR) for the City of Benicia Housing Element and Safety Element Updates certified by the City on January 24, 2023, pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Code § 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §15000 et seq.). In addition, the disposition and the DDA are exempt pursuant to Sections 15194, 15312, and 15332 of the CEQA Guidelines, which apply to affordable housing, sales of surplus government property, and infill development. The proposed project is 100% affordable housing to be developed on approximately 2.75 acres of infill sites within the City of Benicia urbanized area. The property subject to the DDA has qualified for disposition under the Surplus Lands Act and is not located in an area of statewide, regional, or areawide concern identified in CEQA Guidelines Section 15206(b)(4).

ATTACHMENT:

1. Resolution – Approving the Disposition and Development Agreement with Eden Benicia Senior Investors, LP and Authorizing the City Manager to Execute the Agreement
Exhibit A – Disposition and Development Agreement
2. Planning Commission Resolution No. 26-1

¹ The Planning Commission agenda packet and video for the April 9, 2026 meeting can be viewed at www.ci.benicia.ca.us/agendas.

For more information contact: Suzanne Thorsen, Assistant City Manager
Phone: 707-746-4280 E-mail: sthorsen@ci.benicia.ca.us

RESOLUTION NO. 26-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH EDEN BENICIA SENIOR INVESTORS, LP AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Benicia is the owner of real property located at 187 East L Street, Benicia, CA (APNs: Parcel 1 0088-113-010, 0088-113-020 and 0088-113-030; Parcel 2 0088-141-060; and Parcel 3 0088-141-070) (“Senior Center Site”) and at an unaddressed parcel at East L Street and East 4th Street, Benicia, CA (APN 0088-124-130) (“Scout Property”); and

WHEREAS, the Scout Property was offered for disposition following completion of the “small parcel exemption” of Government Code sections 54221(f)(1)(B) for lots smaller than 0.5 acres that are not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes; and

WHEREAS, on October 29, 2024, the City Council adopted Resolution No. 24-119 and thereby declared the Senior Center Site exempt surplus land and on December 5, 2024 the State Department of Housing and Community Development (“HCD”) notified the City that HCD found that the Senior Center Site qualifies as exempt surplus land under Government Code Section 54221(f)(1)(F); and

WHEREAS, on January 6, 2025, the City issued Requests for Proposals for the development of affordable housing on the Scout Property and Senior Center Site; and

WHEREAS, Eden Benicia Senior Investors, LP (“Eden Housing”) was selected as the responsive bidder and has proposed a senior citizen housing development that would include: at least ninety (90) rental units in two buildings on the Senior Center Site and one building on the Scout Property all available to Extremely Low-, Very Low-, and Low-income households; two manager’s units (one on the Senior Center Site and one on the Scout Property); a cold shell build out of a new senior center of not less than 6000 square feet on the Senior Center Site; a 19,000 square foot pedestrian promenade open space, and potential for a replacement public restroom, and new podium and surface parking (the “Project”); and

WHEREAS, the proposed Disposition and Development Agreement (DDA, Exhibit A) sets forth the terms and conditions relating to the disposition of the Scout Property and Senior Center Site (collectively the “Site”) to Eden Housing; and the imposition of covenants running with the land to ensure the long-term affordability of the units on the Site; and

WHEREAS, the Planning Commission, at a regular meeting on April 9, 2026 considered the DDA, accepted public comment, and found the disposition of the Site pursuant to the DDA consistent with the Benicia General Plan pursuant to Resolution No. 26-1.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does hereby find that the proposed disposition of the Senior Center Site and the Scout Property implement the Housing Element and are covered by the Environmental Impact Report (SCH Number 2022060021) (EIR) for the City of Benicia Housing Element and Safety Element Updates certified by the City on January 24, 2023, pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Code § 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §15000 et seq.). In addition, the disposition and the DDA are exempt pursuant to Sections 15194, 15312, and 15332 of the CEQA Guidelines, which apply to affordable housing, sales of surplus government property, and infill development. The proposed project is 100% affordable housing to be developed on approximately 2.75 acres of infill sites within the City of Benicia urbanized area. The property subject to the DDA has qualified for disposition under the Surplus Lands Act and is not located in an area of statewide, regional, or areawide concern identified in CEQA Guidelines Section 15206(b)(4).

BE IT FURTHER RESOLVED that the City Council of the City of Benicia hereby finds that the DDA is consistent with the Benicia General Plan, including General Plan Goal 2.1 pertaining to the development of compatible and efficient land uses within the Urban Growth Boundary of the city; Goal 2.14 pertaining to the development of the Eastern Gateway Area including development of multifamily housing and housing for older adults; Goal 3.6 pertaining to enhancement of public places with art; Housing Element Goal 1 pertaining to disposition of City-owned sites for housing development including development of affordable housing; and Housing Element Goal 3 pertaining to development of housing for special populations groups, which includes housing for seniors.

BE IT FURTHER RESOLVED that the City Council of Benicia hereby approves the DDA attached hereto as Exhibit A and incorporated herein by reference and authorizes the City Manager to execute the DDA on behalf of the City and take such additional actions as are necessary to implement the terms of the DDA.

On motion of Council Member _____, seconded by Council Member _____, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of May, 2026 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date

Exhibit A
Development and Disposition Agreement
[see next page]

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between the

CITY OF BENICIA,
a California municipal corporation,

and

EDEN BENICIA SENIOR INVESTORS LP

a California limited partnership,

Dated: _____, 2026

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ATTACHMENTS

Attachment No. 1-A	Site Map
Attachment No. 1-B	Senior Center Conveyance Parcel Site Map
Attachment No. 2-A	Senior Center Site Legal Description
Attachment No. 2-B	Scout Property Legal Description
Attachment No. 2-C	Senior Center Conveyance Parcel Legal Description
Attachment No. 2-D	Retained Site Legal Description
Attachment No. 3	Memorandum of Agreement
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Attachment No. 5	Affordable Housing Agreement & Declaration of Restrictive Covenants
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DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into by and between the CITY OF BENICIA, a California municipal corporation (“**City**”), and EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”), as of the Date of Agreement (as defined in Section 101).

RECITALS

The following recitals are a substantive part of this Agreement; capitalized terms used herein and not otherwise defined are defined in Section 101 of this Agreement:

A. City is the owner of that certain real property located at 187 East L Street, Benicia, CA (APNs: Parcel 1 0088-113-010, 0088-113-020 and 0088-113-030; Parcel 2 0088-141-060; and Parcel 3 0088-141-070) (“**Senior Center Site**”) as more particularly depicted on the Site Map attached hereto as Attachment-1-A (“**Site Map**”) and described in Attachment No.2-A (“**Senior Center Site Legal Description**”) and East L Street and East 4th Street, Benicia, CA (APN 0088-124-130) (“**Scout Property**”) as more particularly depicted on the Site Map and described in Exhibit 2-B (“**Scout Property Legal Description**”). The portion of the Senior Center Site that will be conveyed to Developer after the Subdivision Map records is referred to herein as the Senior Center Conveyance Parcel. The Senior Center Conveyance Parcel and the Scout Property are referred to collectively herein as the “**Site**”. The portion of the Senior Center Site that will be retained by City for the cold shell build out of a new senior center by Developer after the Subdivision Map records shall be referred to herein as the “**Retained Site**”. The approximate boundaries of the Senior Center Conveyance Parcel and the Retained Site are depicted on the map attached hereto as Attachment-1-B, the “**Senior Center Conveyance Parcel Site Map**”.

B. On October 29, 2024 the City Council adopted Resolution No. 24-119 and thereby declared the Senior Center Site exempt surplus land and on December 5, 2024 the State Department of Housing and Community Development (“**HCD**”) notified the City that HCD found that the Senior Center Site qualifies as exempt surplus land under Government Code Section 54221(f)(1)(F).

C. The City determined that the Scout Property was exempt surplus land under the small parcel exemption set forth in the Surplus Lands Act and provided notice of that determination in accordance with Government Code Section 54221, no comments were received in response to the notice, and on January 7, 2025, HCD notified the City that HCD found that the Scout Property qualifies as exempt surplus land under Government Code Section 54221(f)(1)(B).

D. On January 6, 2025, the City issued Requests for Proposals for the development of affordable housing on the Site. The City received one response from Developer.

E. Developer has proposed a senior citizen housing development as defined by Section 51.3 of the California Civil Code on the Site. The proposed development includes: approximately ninety seven (97), but in no event less than ninety (90) rental units in two buildings on the Senior Center Site and one building on the Scout Property all available to Extremely Low-, Very Low-, and Low-income households with a mix of predominantly one-bedroom units with a small percentage of studio units on the Scout Property; two 2-bedroom manager’s units (one on the Senior Center Site and one on the Scout Property); a cold shell build out of a new senior center of

not less than 6000 square feet on the Senior Center Site; an approximately 19,000 square foot pedestrian promenade open space, and potential for a replacement public restroom, and new podium and surface parking (the “**Project**”).

F. City and Developer desire to enter into this Agreement to set forth the terms and conditions relating to: (i) the disposition of the Site to Developer; (ii) the development and maintenance of the Project by Developer; and (iii) the imposition of covenants running with the land to ensure the long-term affordability of the units on the Site.

G. The fulfillment of this Agreement is in the vital and best interests of City and the health, safety, and welfare of its residents and in accord with the provisions of applicable federal, state and local law.

AGREEMENT

NOW, THEREFORE, City and Developer hereby agree as follows:

100. DEFINITIONS; REPRESENTATIONS AND WARRANTIES

101. Definitions.

“*Adjusted for family size appropriate to the unit*” shall have the meaning set forth in Section 50052.5 of the California Health and Safety Code, as amended or any successor statute thereto, subject to the application of federal rules and regulations, if applicable, to financing sources for all or a portion of the Project, including applicable federal and TCAC regulations.

“*Affiliate of Developer*” means an entity or entities in which Developer retains more than fifty percent (50%) in the aggregate, directly or indirectly, of the ownership or beneficial interest and retains full management and control of the day-to-day affairs of the transferee entity or entities, either directly or indirectly through another entity, subject only to certain major events requiring the consent or approval of the other owners of such entity.

“*Affordable Housing Covenant*,” as defined in Section 405, means the Affordable Housing Agreement and Declaration of Restrictive Covenants, attached hereto as Attachment No. 5.

“*Affordable Rent*” shall mean rental rates no greater than that considered as affordable rent for Extremely Low-, Very Low-, and Low-Income Households, as applicable to the Eligible Household, adjusted for family size appropriate to the unit, determined in accordance with California Health and Safety Code Section 50053, as amended, or any successor statute thereto; provided, however, in no event shall the maximum affordable rent be higher than 20 percent below the median market rate rents for the neighborhood in which the Site is located; and provided, further that for lower income households with gross incomes that exceed 60 percent of the Area Median Income adjusted for family size appropriate to the unit, rental rates may be established at a level not to exceed 30 percent of Gross Income of the household. Notwithstanding the foregoing, if applicable to financing sources for all or a portion of the Project, during the fifteen (15) year tax credit compliance period under Internal Revenue Code Section 42, or such longer term of the regulatory agreement to be executed by TCAC and Developer and recorded against the applicable

portion of the Project, the City hereby permits Developer to use the occupancy standards and rent levels required by TCAC.

“Affordable Unit” and ***“Affordable Units”*** are defined in Section 402.

“Agreement” means this Disposition and Development Agreement between City and Developer.

“Approvals” means the Project Approvals and any Subsequent Approvals.

“Area Median Income” means the median household income (adjusted for family size appropriate to the unit) of the Metropolitan Statistical Area in which Solano County is located, as established pursuant to California Health and Safety Code Sections 50093 and 50105, as amended or any successor statute thereto, or as applicable, the median income for Solano County, California, adjusted for family size appropriate to the unit, as determined by TCAC regulations.

“Certificate of Completion,” as defined in Section 310, means the document evidencing Developer’s satisfactory completion of construction and installation of the Project Improvements, attached hereto as Attachment No. 7.

“City” means the City of Benicia, a California municipal corporation.

“City Consultant Cost Deposit” is defined in Section 210.

“City Council” means the City Council of the City of Benicia.

“City Manager” means the City Manager of the City of Benicia, or their designee.

“City Municipal Code” means the Municipal Code of the City of Benicia.

“City Parties” is defined in Section 306.

“City’s Conditions Precedent to Closing” is defined in Section 205.1.

“Claims” means demands, lawsuits, liabilities, obligations, claims, damages, fines, penalties, expenses, costs, and cause of actions (including reasonable attorneys’ fees), whether at law or in equity.

“Closing” is defined in Section 202.4.

“Closing Costs” is defined in Section 202.1.

“Closing Date” is defined in Section 202.4.

“Commence Construction” and ***“Commencement of Construction”*** are defined in Section 303.

“Complete Construction” and ***“Completion of Construction”*** are defined in Section 303.

“Condition of Title” is defined in Subsection 203.

“Construction Contract” is defined in Section 305.1.

“Construction Drawings” is defined in Section 304.2.

“Consultant Costs” is defined in Section 210.

“Conveyance” means the conveyance of fee title to the Site by City to Developer.

“County” means the County of Solano.

“Date of Agreement” means the date on which this Agreement is signed by the City Manager on behalf of City as indicated on the signature page hereof.

“Davis-Bacon” is defined in Subsection 308.2.

“Default” is defined in Section 601.

“Developer” means Eden Benicia Senior Investors LP, a California limited partnership.

“Developer Plans” is defined in Section 604.

“Developer’s Conditions Precedent to Closing” is defined in Section 205.2.

“Eligible Household” means an Extremely Low-Income Household, Very Low-Income Household, or Low-Income Household qualified in accordance with the terms of this Agreement, the Affordable Housing Covenant and Sections 50106, 50105, and 50079.5, respectively, of the California Health and Safety Code, as amended or any successor statute thereto.

“Escrow” is defined in Section 202.

“Escrow Agent” is defined in Section 202.

“Evidence of Financing” is defined in Section 501.2.

“Exceptions” is defined in Section 203.

“Extremely Low-Income Household” is defined in Section 50106 of the California Health and Safety Code, as amended or any successor statute thereto.

“Financial Assistance” is defined in Section 102.2.

“Grant Deed” means the document effecting the Conveyance to be recorded in the Official Records at Closing, attached hereto as Attachment No. 6.

“Hazardous Materials” means any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including any material or substance which is: (i) defined as a “hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a “hazardous substance” under

Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) friable asbestos; (vii) polychlorinated biphenyls; (viii) listed under Article 9 or defined as “hazardous” or “extremely hazardous” pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1317); (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, (42 U.S.C. § 6903); or (xi) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.*, as the foregoing statutes and regulations now exist or may hereafter be amended.

“Implementing Agreements” is defined in Section 210.

“Interest” and **“Interests”** are defined in Section 103.1.

“Laws” means all laws, ordinances, statutes, codes, rules, regulations, orders and decrees, of the United States, the State of California, County, City, any other political subdivision in which the Site is located, and of any other political subdivision, City or instrumentality exercising jurisdiction over City, Developer, the Site or the Project Improvements, including all applicable state labor laws and standards (including prevailing wages, as applicable); all applicable public contracts requirements, zoning and development standards; building, plumbing, mechanical and electrical codes; all other provisions of the City Municipal Code; and all applicable disabled and handicapped access requirements, including the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

“Low-Income Household” is defined in Section 50079.5 of the California Health and Safety Code, as amended, or any successor statute thereto.

“Marketing Plan” is defined in Section 402.3.

“Memorandum of Agreement,” as defined in Section 704, means the Memorandum of Disposition and Development Agreement, attached hereto as Attachment No. 3.

“MMRPs” means the mitigation monitoring and reporting program: a) adopted by the City Council pursuant to Resolution No. 23-1 upon certification of the Final Environmental Impact Report for the Housing and Safety Element Updates (SCH No. 2022060021) which applies to both the Senior Center Site and the Scout Property; and b) adopted by the City Council pursuant to Resolution No. 22-3 with the adoption of the Initial Study and Mitigated Negative Declaration for the Eastern Gateway Mixed-Use Districts which applies to the Scout Property.

“Notice” is defined in Section 701.

“Official Records” means the official records of the Office of the County Clerk-Recorder of the County of Solano.

“Option Price” is defined in Section 605.

“Outside Date” is defined in Section 202.4.

“Owner” means the owner of fee title to the Site.

“Owner’s Title Policy” is defined in Section 204.

“Planning Commission” means the City of Benicia Planning Commission.

“Pre-Approved Exceptions” is defined in Section 203.

“Preliminary Financing Report” is defined in Section 501.1.

“Project” is defined in Recital E.

“Project Approvals” is defined in Section 302.1.

“Project Improvements” means the improvements to be designed and constructed by Developer on the Site as provided herein and described in Section 301.

“Property Manager” is defined in Section 402.5.

“Property Manager Unit” is defined in Section 402.2.

“Public Financing” is defined in Section 501.1.

“Purchase Price” is defined in Section 201.

“Retained Site” is defined in Recital A and is depicted on the Senior Center Conveyance Parcel Site Map.

“Retained Site Legal Description” means the legal description of the Retained Site attached hereto as Attachment 2-D to be inserted after the recordation of the Subdivision Map.

“Schedule of Performance” means the Schedule of Performance attached hereto as Attachment No. 4, setting out the dates and/or time periods by which certain obligations of City and Developer set forth in this Agreement must be accomplished.

“Schematic Plans” is defined in Section 304.1.

“Scout Property” is defined in Recital A.

“Senior Center Site” is defined in Recital A. For the avoidance of doubt, all references in this Agreement to the Senior Center Site shall mean the portion of the Senior Center Site that is being conveyed to Developer after the Subdivision Map records.

“Senior Center Conveyance Parcel” is defined in Section 302.3.

“Senior Center Conveyance Parcel Legal Description” means the legal description of the Senior Center Conveyance Parcel attached hereto as Attachment 2-C to be inserted after the recordation of the Subdivision Map.

“Senior Center Conveyance Parcel Site Map” means the map attached hereto as Attachment 1-B depicting the approximate boundaries of the Senior Center Conveyance Parcel and the Retained Site. The Senior Center Conveyance Parcel Site Map will be replaced with a map depicting the actual boundaries of the Senior Center Conveyance Parcel and the Retained Site after the recordation of the Subdivision Map.

“Site” is defined in Recital A.

“Site Improvements” is defined in Section 301.

“Site Legal Descriptions,” as defined in Recital A, means the legal description of the Senior Center Site and the Scout Property attached hereto as Attachment No. 2-A and Attachment No. 2-B respectively.

“Site Management Plan” is defined in Section 402.5.

“Site Map,” as defined in Recital A, means the map of the Site attached hereto as Attachment No 1.

“Soft Sources of Funding” means all funding sources necessary to construct the Project other than tax credits and senior construction and permanent loan financing.

“State Labor Code” is defined in Subsection 308.2(a).

“Subordination Agreement – Affordable Units” is defined in Section 405.

“Subsequent Project Approvals” is defined in Section 302.2.

“Subdivision Map” means a parcel map or tentative map in accordance with the Subdivision Map Act, Government Code Sections 66410, *et seq.*, and the Municipal Code to remove those portions of the Senior Center Site, that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, and which creates the Retained Site.

“Supportive Services Plan” is defined in Section 402.4.

“TCAC” means the California Tax Allocation Committee.

“Title Company” is defined in Section 202.

“Title Report” is defined in Section 203.

“Transfer” is defined in Section 605(d).

“Very Low-Income Household” is defined in Section 50105 of the California Health and Safety Code, as amended or any successor statute thereto.

102. Representations and Warranties.

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

(a) **Authority.** City is a California municipal corporation, which has been authorized to transact business pursuant to action of the City Council of the City. City has full right, power and lawful authority to perform its obligations hereunder and the execution, performance and delivery of this Agreement by City has been fully authorized by all requisite actions on the part of 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 a breach under any contract, agreement or order to which City is a party or by which it is bound.

(c) **Litigation.** To the best of City's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Site or any portion thereof, at law or in equity before any court or governmental entity, domestic or foreign.

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

(a) **Authority.** Developer is a limited partnership, duly organized under, and qualified to do business and in good standing under, the laws of the State of California. Developer has full right, power and lawful authority to perform its obligations hereunder and the execution, performance and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of 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 a breach under any contract, agreement or order to which Developer is a party or by which it is bound.

(c) **No Developer Bankruptcy.** Developer is not the subject of any voluntary or involuntary bankruptcy proceeding, and there has been no general assignment or general arrangement for the benefit of any of Developer's creditors, and no trustee or receiver has been appointed to take possession of substantially all of the assets of Developer.

(d) **No City Member Financial Interest.** No member, official or employee of Developer has any personal interest, direct or indirect, in this Agreement, the Site, the Project Improvements to be constructed thereon, or in any other development project or business venture in which Developer is the controlling or managing member, general partner or majority shareholder.

(e) **Need for Financial Assistance.** The Project Improvements are not financially feasible without the Conveyance of the Site to Developer pursuant to the provisions set forth in Section 201 (the "**Financial Assistance**"). The pro forma dated April 7, 2025, which supports Developer's need for Financial Assistance is true, correct and complete in all material respects as of the date of the pro forma.

102.3 Material Changes. Until the issuance of a Certificate of Completion for the Project Improvements, Developer, upon learning of any fact or condition that would cause any of the warranties and representations in Section 102 not to be true in material respects, shall give written notice of such fact or condition to City within five (5) days of Developer learning such fact or condition.

103. Prohibition Against and Limitations on Change in Ownership, Management and Control of Developer.

103.1 General. The qualifications and identity of the Developer are of particular concern to City. It is because of such demonstrated qualifications and identity that City has entered into this Agreement with Developer. No voluntary or involuntary successor in interest of Developer shall acquire any interest in the Site or Project Improvements or any portion thereof, or any rights or powers under this Agreement (each of the foregoing is referred to herein as an “**Interest**” and collectively as “**Interests**”), except as expressly set forth herein. It is expressly stipulated and agreed that any assignment, sale, transfer or other disposition of all or any portion of the Site or any interest therein or any rights or powers under this Agreement in violation of this Section 103 shall be null, void and without effect and shall be ineffective to relieve Developer of its obligations under this Agreement. After issuance of the Certificate of Completion, this Section 103 shall no longer apply and the restrictions on transfer shall be as set forth in the Affordable Housing Covenant.

103.2 Assignment.

(a) Except for pre-approved transfers described in Section 103.3, prior to issuance of a Certificate of Completion with respect to the Project Improvements, Developer shall not assign or transfer any Interest without the prior written approval of the City Manager, in their sole discretion. The City Manager shall have the right to disapprove any transfer or assignment that would materially diminish or otherwise materially impair the ability of Developer to fulfill its duties and obligations under this Agreement.

(b) Developer shall promptly notify City in advance of any proposed transfer or assignment of any Interest. The City Manager shall approve or disapprove the requested transfer or assignment within sixty (60) days after receipt of a written request for approval, together with such documentation as may be reasonably requested by the City Manager in order to evaluate the proposed assignee’s/transferee’s experience and qualifications, including all loan documents in connection with any proposed financing or refinancing and all documentation which the City Manager determines is reasonably necessary to evaluate the proposed transaction and the proposed assignee’s/transferee’s experience and qualifications. Notice of a proposed transfer or assignment shall not be required with respect to those pre-approved transfers listed in Subsections 103.3(b) or 103.3(d). While pre-approved transfers described in Subsections 103.3(a), 103.3(c) and 103.3(e) do not require the prior approval of the City, Developer is required to provide notice of a proposed transfer or assignment of those pre-approved transfers described in Subsections 103.3(a), 103.3(c) and 103.3(e).

(c) In addition, Developer shall deliver to the City Manager a proposed written assignment and assumption agreement in which the assignee would expressly agree to assume all rights and obligations of Developer under this Agreement which arise after the effective date of the assignment, and in which the assignee would agree to assume, or Developer would

expressly remain responsible for, all performance of Developer which arose prior to the effective date of the assignment. The assignment and assumption agreement shall be in a form reasonably acceptable to City's legal counsel. Promptly following the date the assignment becomes effective, Developer shall deliver to City a fully executed counterpart of the assignment and assumption agreement.

103.3 Pre-Approved Transfers. Notwithstanding any other provision of this Agreement to the contrary, City approval of a transfer or assignment of any Interest shall not be required in connection with any of the following:

(a) Subject to Developer submitting and obtaining City's approval of the assignment and assumption agreement referred to in Subsection 103.3(c) any transfer or assignment of any Interest to an Affiliate of Developer;

(b) The granting of temporary or permanent easements or permits to facilitate development of the Project Improvements;

(c) Any mortgage, deed of trust, or assignment for purposes of financing construction (including design, planning, permitting, remediation, site preparation and horizontal and vertical construction) of the Project Improvements;

(d) Leasing or rental of Affordable Units to Eligible Households at Affordable Rents;

(e) Subject to Developer submitting and obtaining City's approval of the assignment and assumption agreement referred to in Subsection 103.3(c), a transfer of Developers ownership interests into an entity in which Developer maintains full management and control of the day-to-day affairs of the transferee entity or entities, either directly or indirectly through another entity, and which transfer is completed only for the purpose of facilitating financing for the Project Improvements and

(f) The admission of limited partners to the Developer in connection with tax credit financing, and any subsequent transfer of such limited partnership interests, including any transfer of stock or equity in the limited partners that does not change management or operational control of the Project Improvements.

In the event of an assignment or transfer by Developer under Subsection 103.3(a), 103.3(c), or 103.3(e) not requiring City's prior approval, Developer nevertheless agrees that it shall give at least sixty (60) days prior written Notice to City of such assignment or transfer. In addition, City shall be entitled to review such documentation as may be reasonably required by the City Manager for the purpose of determining compliance of such assignment or transfer with the requirements of Subsection 103.3(a), 103.3(c) or 103.3(e).

103.4 Mortgagee Protection. Nothing in this Section 103 or elsewhere in this Agreement shall prohibit (i) the sale or transfer of all or any portion of the Site or Project Improvements through foreclosure of a mortgage or deed of trust permitted pursuant to Subsection 103.3(c), (ii) the transfer of all or any portion of the Site to the holder of such permitted mortgage or deed of trust by deed in lieu of foreclosure, or (iii) the transfer of all or any portion of

the Site by any such holder subsequent to acquisition by foreclosure or deed in lieu, so long as such transfer complies with Section 311.

200. CITY DISPOSITION OF THE SITE TO DEVELOPER

201. Purchase and Sale of the Site. Developer shall purchase the Site from City and City shall sell the Site to Developer in accordance with and subject to all the terms, covenants, and conditions of this Agreement for the sum of One Dollar (\$1.00) (“**Purchase Price**”).

202. Escrow. Within the time set forth in the Schedule of Performance, City shall open escrow (“**Escrow**”) with Old Republic Title Company in Oakland “**Escrow Agent**” or “**Title Company**”), for Conveyance of the Site to Developer.

202.1 Closing Costs. Any and all usual fees, charges, and costs chargeable by Escrow Agent for the Escrow, including the costs of the premium for the Title Policy and any endorsements thereto, recording fees, and documentary transfer taxes, if any, due with respect to the Conveyance of the Site (collectively, the “**Closing Costs**”), shall be paid by Developer.

202.2 Supplemental Escrow Instructions. Prior to Conveyance of the Site to Developer, the parties shall submit appropriate supplemental escrow instructions to Escrow Agent for the close of the Escrow in accordance with the terms and conditions of this Agreement. The parties shall use reasonable good faith efforts to close Escrow in the shortest possible time. Insurance policies for fire or casualty are not to be transferred, and City will cancel its own policies, if any, after the Closing. All funds received in the Escrow shall be deposited in interest-bearing accounts for the benefit of the depositing party in any state or national bank doing business in the State of California. All disbursements shall be made by check or wire transfer from such account. The Closing shall take place when both City’s and Developer’s Conditions Precedent to Closing as set forth in Section 205 hereof have been satisfied or waived by the party benefitted by such condition. Escrow Agent is instructed to release City’s escrow closing and Developer’s escrow closing statements to the respective parties.

202.3 Authority of Escrow Agent. Escrow Agent is authorized to, and shall:

(a) **Title Policy.** Pay and charge Developer for the premium of the Owner’s Title Policy as set forth in Section 204 hereof and any amount necessary to place title in the condition necessary to satisfy Section 203 of this Agreement.

(b) **Endorsements.** Pay and charge Developer for any endorsements to the Title Policy that are requested by Developer as set forth in Section 204 hereof.

(c) **Fees.** Pay and charge Developer for the Closing Costs.

(d) **Purchase Price.** Deliver the Purchase Price to City.

(e) **Grant Deed.** Record the Grant Deed conveying fee title to the Site to Developer.

(f) **Memorandum of Agreement.** Record the Memorandum of Agreement against the Site.

(g) **Affordable Housing Covenant.** Record the Affordable Housing Covenant against the Site.

(h) **Subordination Agreement – Affordable Units.** Record the Subordination Agreement – Affordable Units against the Site.

(i) **Disbursement.** Disburse funds and deliver and record the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant, Subordination Agreement – Affordable Units when both Developer’s and City’s Conditions Precedent to Closing have been fulfilled or waived in writing by Developer and/or City, as applicable.

(j) **Other Actions.** Do such other actions as necessary, including obtaining the Owner’s Title Policy, to fulfill its obligations under this Agreement.

(k) **Additional Documents.** Direct City and Developer to execute and deliver any instrument, affidavit, and statement, and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act and regulations promulgated thereunder. City shall execute a Certificate of Non-Foreign Status by individual transferor and/or a Certification of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act as may be required by Escrow Agent, on the form to be supplied by Escrow Agent.

(l) **Closing Statement.** Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

202.4 Closing. The Conveyance of the Site by City to Developer shall take place within ten (10) days after the satisfaction or waiver, as applicable, of all of City’s and Developer’s Conditions Precedent to Closing as set forth in Section 205, below. “**Closing**” shall mean the time and day the Grant Deed is filed for record in the Official Records of Solano County. The “**Closing Date**” shall mean the date on which the Closing occurs. If, for any reason, Closing has not occurred prior to June 30, 2028 (“**Outside Date**”), this Agreement shall automatically terminate and, thereafter, neither party shall have any further rights or obligations hereunder except for those provisions which by their terms survive expiration or termination of this Agreement; however, the foregoing notwithstanding, if Developer has secured all Soft Sources of Funding and submitted an application for tax credit financing on or prior to June 30, 2028, the Outside Date shall automatically be extended to June 30, 2029. Notwithstanding Section 702 below, the Outside Date is not subject to extension for any enforced delays.

202.5 Closing Procedure. Escrow Agent shall close Escrow for the Site as follows:

(a) **Grant Deed.** Record the Grant Deed conveying fee title to the Site to Developer in the Official Records, with instructions to deliver the Grant Deed to Developer.

(b) **Memorandum of Agreement.** Record the Memorandum of Agreement against the Site in the Official Records immediately following recordation of the Grant Deed.

(c) **Affordable Housing Covenant.** Record the Affordable Housing Covenant against the Site in the Official Records immediately following recordation of the Memorandum of Agreement.

(d) **Subordination Agreement – Affordable Units.** Record the Subordination Agreement – Affordable Units against the Site in the Official Records immediately following recordation of the Affordable Housing Covenant.

(e) **Purchase Price.** Deliver the Purchase Price to City.

(f) **Owner’s Title Policy.** Instruct the Title Company to deliver the Owner’s Title Policy to Developer.

(g) **Informational Reports.** File any informational reports required by Internal Revenue Code section 6045(e), as amended, and any other applicable requirements.

(h) **FIRPTA Certificate.** Deliver the FIRPTA Certificate, if any, to Developer.

(i) **Accounting.** Forward to both Developer and City a separate accounting of all funds received from and disbursed to each party and conformed copies of all executed and recorded or filed documents deposited into Escrow, with such recording and filing date and information endorsed thereon.

203. Review of Title. City shall cause Title Company to provide Developer with a standard preliminary title report for the Site (the “**Title Report**”) together with legible copies of the documents underlying the exceptions set forth in the Title Report (“**Exceptions**”) within the time set forth in the Schedule of Performance. Further, within the time set forth in the Schedule of Performance, Developer shall cause a survey of the Site to be prepared by a licensed civil engineer, certified to Title Company, Developer and City, sufficient to enable Title Company to issue the Owner’s Title Policy at Closing. Developer shall have the right to reasonably approve or disapprove the Title Exceptions; provided, however, Developer hereby approves the following Exceptions which shall be referred to herein as the “**Pre-Approved Exceptions**”:

- (a) The lien of any non-delinquent property taxes and assessments;
- (b) The conditions, including repurchase option, set forth in the Grant Deed;
- (c) The Memorandum of Agreement;
- (d) The Affordable Housing Covenant;
- (e) Matters created by, through, or under Developer, including, but not limited to, a parking easement deed, pedestrian promenade easement deed and any other easements or agreements required to be recorded against the Site in the Official Records prior to issuance of a certificate of occupancy for the Site Improvements; and

(f) Such other exceptions to title as may hereafter be mutually approved by City and Developer.

Within the time set forth in the Schedule of Performance, Developer shall give written Notice to City, Title Company and Escrow Agent of Developer's approval or disapproval of any of the Exceptions (except the Pre-Approved Exceptions). Developer's failure to give written disapproval of the Exceptions within such time limit shall be deemed approval of the Exceptions. If Developer notifies City of its disapproval of any Exceptions, City shall have the right, but not the obligation, to cause any disapproved Exceptions to be removed within sixty (60) days after receiving written Notice of Developer's disapproval or provide assurances satisfactory to Developer that such Exceptions will be removed on or before the Closing. City's failure to notify Developer within such sixty (60) day period shall be deemed an election not to remove the disapproved Exceptions. City's election not to remove any disapproved Exceptions shall not be a Default under the provisions of this Agreement. If City cannot or does not elect to remove any of the disapproved Exceptions within such sixty (60) day period, Developer shall have ten (10) days after the expiration of such sixty (60) day period to either give City written Notice that Developer elects, in its sole discretion, to proceed with the purchase of the Site subject to the disapproved Exceptions or to give City written Notice that Developer elects to terminate this Agreement. The Exceptions to title approved by Developer as provided herein shall hereinafter be referred to as the "**Condition of Title.**" If any Exceptions other than Pre-Approved Exceptions are reported by the Title Company after Developer has approved the Condition of Title for the Site pursuant to the foregoing procedures, then any such new Exception shall be subject to the same procedures for review and approval set forth above for Exceptions constituting the Condition of Title. Notwithstanding the foregoing, upon the Date of Agreement until the Closing, the City shall not further encumber the Site with any new liens or encumbrances without the prior written consent of the Developer, which consent will not be unreasonably withheld.

204. Title Insurance. Concurrently with recordation of the Grant Deed conveying to Developer fee title to the Site, the Title Company shall issue to Developer an ALTA owner's policy of title insurance in an amount equal to the fair market value of the Site ("**Owner's Title Policy**"), together with such endorsements as are reasonably requested by Developer, insuring that title to Developer's interest in the Site acquired as of the date of issuance of the Owner's Title Policy is vested in Developer. Title Company shall provide City with a copy of the Owner's Title Policy. The premium for the Owner's Title Policy, plus any additional costs, including the cost of the survey, if prepared, and any endorsements requested by Developer shall be borne by Developer.

205. Conditions of Closing. The Closing is conditioned upon the satisfaction of the following terms and conditions within the times designated below:

205.1 City's Conditions of Closing. City's obligation to proceed with the Closing of the Conveyance of the Site is subject to the fulfillment or waiver by City of each and all of the conditions precedent described below ("**City's Conditions Precedent to Closing**"), which are solely for the benefit of City, and which shall be fulfilled or waived within the time periods provided for herein:

(a) **No Default.** Prior to the Closing, Developer shall not be in Default under the terms of this Agreement, no event shall have occurred which with the passage of time

or giving of notice or both would constitute a Default hereunder, and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

(b) Execution of Documents. Developer shall have (i) executed and acknowledged the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant and any other documents required hereunder and delivered such documents into Escrow, and (ii) caused its lienholders to execute and acknowledge the Subordination Agreement – Affordable Units and deliver such documents into Escrow.

(c) Purchase Price. Developer shall have delivered the Purchase Price into Escrow.

(d) Costs of Closing. Developer shall have delivered the Closing Costs into Escrow.

(e) Evidence of Financing. City shall have approved Developer's Evidence of Financing as provided in Section 501.2 hereof.

(f) Insurance. Developer shall have provided proof of insurance as required by Section 306 hereof.

(g) General Contractor/Construction Contract. City shall have approved Developer's general contractor and the Construction Contract as provided in Section 305.1 hereof.

(h) Construction Loan Closing. Developer's construction loan(s) shall have closed or shall be ready to close concurrently with the Closing.

(i) Permits and Land Use Approvals. Developer shall have obtained all City and other governmental permits and land use approvals required pursuant to Section 302 hereof and all other entitlements for the Project Improvements, and the period for administrative and legal challenge to such land use approvals and entitlements shall have expired and City shall be ready to issue building permits for the construction of the Project Improvements upon the payment of the applicable fees by Developer.

(j) Payment of Development Fees. Developer shall have paid all or be current on payments to City of all development fees due City pursuant to the Project Approvals to enable Developer to commence development and construction of the Project Improvements unless City has otherwise agreed in writing to defer Developer's payment of development fees to the issuance of a certificate of occupancy for the Project.

205.2 Developer's Conditions of Closing. Developer's obligation to proceed with the Conveyance of the Site is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent described below ("**Developer's Conditions Precedent to Closing**"), which are solely for the benefit of Developer, and which shall be fulfilled or waived within the time periods provided for herein:

(a) No Default. Prior to the Closing, City shall not be in Default of any of its obligations under the terms of this Agreement, no event shall have occurred which with the

passage of time or giving of notice or both would constitute a Default hereunder, and all representations and warranties of City contained herein shall be true and correct in all material respects.

(b) Evidence of Financing. City shall have approved Developer's Evidence of Financing as provided in Section 501.2 hereof.

(c) General Contractor/Construction Contract. City shall have approved Developer's general contractor and the Construction Contract as provided in Section 305.1 hereof.

(d) Execution of Documents. City shall have authorized, executed and acknowledged the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant, and any other documents required hereunder, and delivered such documents into Escrow.

(e) Review and Approval of Title. Developer shall have reviewed and approved the Condition of Title, as provided in Section 203 hereof.

(f) Developer's Approval Notice. Developer shall have delivered Developer's Approval Notice to the City in accordance with Section 208.1 hereof.

(g) Owner's Title Policy. The Title Company shall, upon payment of Title Company's regularly scheduled premium, be ready to issue the Owner's Title Policy upon recordation of the Grant Deed in accordance with Section 204 hereof.

(h) Subdivision Map. The Subdivision Map shall have been recorded.

206. Property Taxes and Assessments. Ad valorem taxes and assessments levied, assessed or imposed on the Site for any period prior to Conveyance of the Site to Developer shall be borne by City. Ad valorem taxes and assessments levied, assessed or imposed on the Site for the period after Conveyance thereof shall be borne by Developer.

207. Access to Site Prior to Conveyance of Site. Prior to Conveyance of the Site, City and Developer shall cooperate to enable representatives of Developer to obtain the right of access to all portions of the Site for the purpose of obtaining data and making surveys and tests, including the investigation of the soils and environmental condition of the Site. Developer agrees to notify City in writing at least twenty-four (24) hours prior to undertaking any studies or work upon the Site. City may require Developer to execute one or more right of entry agreements satisfactory to City's legal counsel prior to commencing such studies or work. Any preliminary work by Developer shall be undertaken only after securing all required insurance under this Agreement and any and all necessary permits from the appropriate governmental agencies. Developer shall indemnify, defend, protect and hold City and City Parties harmless from any claims, losses, liabilities and damages arising out of the activities of Developer as set forth in this Section 207. In addition, in the event that Developer causes any damage to any portion of the Site or the existing improvements thereon, Developer shall promptly restore the Site and existing improvements thereon as nearly as possible to the physical condition existing immediately prior to Developer's entry onto the Site.

208. Condition of the Site.

208.1 Investigation of the Site. Prior to the Effective Date, Developer and Developer's authorized representatives were granted access to the Site to conduct reviews and assessments of the physical and environmental condition of the Site and the condition of the existing improvements. City may require Developer to execute a right of entry agreement satisfactory to City prior to entry onto the Property for such purpose and shall require Developer to provide proof of liability insurance acceptable to City. Developer's inspection, examination, survey and review of the Site shall be at Developer's sole expense. Developer shall provide City with copies of all reports and test results promptly following completion of such reports and testing, including any reports Developer received prior to entering into this Agreement. Developer hereby agrees to notify the City 5 working days in advance of its intention to enter the Site and will provide workplans, drawings, and descriptions of any intrusive sampling it intends to do. Developer must keep the Site in a safe condition during its entry. Developer shall repair, restore and return the Site to its condition immediately preceding Developer's entry thereon at Developer's sole expense. Developer will not permit any mechanics liens, stop notices or other liens or encumbrances to be placed against the Site prior to Close of Escrow. Without limiting any other indemnity provisions set forth in this Agreement, Developer shall indemnify, defend (with counsel approved by City) and hold City and City Parties harmless from and against all Claims resulting from or arising in connection with entry upon the Site by Developer or Developer's agents, employees, consultants, contractors or subcontractors pursuant to this Section 208.1 except to the extent arising from the gross negligence or willful misconduct of the City and City Parties. Developer's indemnification obligations set forth in this Section 208.1 shall survive the Close of Escrow and the termination of this Agreement.

Developer shall have until 5:00 p.m. (Pacific Standard Time) on the day that is one hundred twenty (120) calendar days after the Date of Agreement (the "**Contingency Date**") in which to approve or disapprove, in Developer's sole and absolute discretion, any and all inspections, investigations, tests and studies set forth in this Section 208.1 by providing written notice to City ("**Developer's Approval Notice**"). In the event Developer determines the Property is not acceptable to Developer for any reason or no reason, Developer shall have the right to terminate this Agreement by delivering written Notice to City of its election to terminate pursuant to this Section 208.1 on or before the Contingency Date ("**Developer's Disapproval Notice**"). In the event Developer has not provided City, by the Contingency Date, with Developer's Approval Notice or Developer's Disapproval Notice, this Agreement shall automatically be deemed to have been terminated effective as of the Contingency Date, and thereafter neither party shall have any further rights or obligations hereunder except for those obligations which by their express terms survive the termination of this Agreement. If Developer timely provides Developer's Disapproval Notice or if this Agreement is deemed to have been terminated as provided above, upon such termination, each party shall promptly execute and deliver to Escrow Agent such documents as Escrow Agent may reasonably require to evidence such termination. The 120-calendar day period within which Developer is to perform its due diligence investigation of the Property is referred to herein as the "**Due Diligence Period**".

Developer acknowledges that City makes no representations or warranties with respect to the accuracy, completeness, methodology of preparation or otherwise concerning the contents of any information or reports made available to Developer regarding any inspections, engineering, environmental or other matters pertaining to the Site. Developer acknowledges that City has requested that Developer inspect fully all portions of the Site and investigate all matters relevant thereto and to rely solely upon the results of Developer's own inspections or other

information obtained or otherwise available to Developer, rather than any information that may have been provided by City to Developer.

208.2 No Further Warranties as to Site; Release of City. Notwithstanding any provision of this Agreement to the contrary, the Site shall be conveyed by City to Developer in its “AS IS” condition, “WITH ALL FAULTS,” with no warranty expressed or implied by City regarding the presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Site for the development purposes intended hereunder. To the extent authorized by contract or law, City shall assign to Developer all warranties and guaranties with respect to the Site, if any, that City may receive from the prior owner of the Site.

Developer hereby waives, releases and discharges forever City and City Parties from all present and future Claims, known and unknown, arising out of or in any way connected with the condition of the Site or the existing improvements thereon or any Hazardous Materials on, under or about the Site or existing improvements, however they came to be placed there.

Developer is aware of and familiar with the provisions of section 1542 of the California Civil Code which provides 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.”

As such relates to this Section 208.2, Developer hereby waives and relinquishes all rights and benefits which it may have under section 1542 of the California Civil Code.

Developer Initials

209. Hazardous Materials.

209.1 Duty to Prevent Hazardous Materials Contamination. After the Conveyance, Developer shall take all reasonably necessary precautions to prevent the release of any Hazardous Materials onto or from the Site. Such precautions shall include compliance with all Laws with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with all Laws with respect to the disclosure, storage, use, removal and disposal of Hazardous Materials.

209.2 Environmental Inquiries. If a release of any Hazardous Materials onto or from any portion of the Site occurs at any time after the Conveyance, Developer shall, as soon as possible after the release, furnish to City a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release.

209.3 Environmental Indemnification. From and after the Conveyance, Developer shall indemnify, defend and hold City and City Parties harmless from and against any Claims resulting from, arising out of, or based upon the release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such

Hazardous Materials to or from, the Site in violation, or alleged violation, of any Laws, occurring from and after the Conveyance, except that the foregoing indemnity obligation shall not apply to any matters that arise out of the active negligence or willful misconduct of City and City Parties nor shall it apply to any matters arising from any conditions on the Site prior to the Conveyance. This indemnity shall include any damage, liability, fine, penalty, parallel indemnity, cost or expense arising from or out of any claim, action, suit or proceeding for bodily injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, trespass, contamination, leak, spill, release or other adverse effect on the environment.

210. City Consultant Cost Deposit. Developer acknowledges that the City shall expend resources negotiating, preparing, and implementing this Agreement and performance of the tasks required of City in the Schedule of Performance. Within the time established in the Schedule of Performance, Developer shall submit to the City an initial deposit of TWENTY-FIVE THOUSAND Dollars (\$25,000) (“**City Cost Deposit**”). The City Consultant Cost Deposit shall be placed in a separate City deposit account and any subsequent deposits shall be added to the total City Consultant Cost Deposit amount and may be used in accordance with this Agreement.

The City Cost Deposit shall be used by the City to pay for the City’s third party consultant costs and expenses incurred to negotiate and prepare this Agreement and negotiate and prepare agreements necessary to implement this Agreement (collectively, the “**Implementing Agreements**”). Such costs may include, but are not limited to, reasonable fees and services of third party consultants and attorneys, selected by the City in its sole discretion, relating to the negotiation and preparation of this Agreement and the negotiation and preparation of the Implementing Agreements (“**Consultant Costs**”). The total Consultant Costs Developer is required to pay under this Agreement shall not exceed \$150,000. Developer acknowledges that City’s Consultant Costs include its City attorney services provided by the firm of Burke Williams & Sorensen, LLP, who will assist City with the negotiation and preparation of this Agreement and the Implementing Agreements.

300. DEVELOPMENT OF SITE

301. Project Improvements. The “**Project Improvements**” to be constructed and developed by Developer on-Site and off-Site shall generally consist of and be defined as the following. Developer agrees that despite the fact that the Senior Center Site and the Scout Property are not contiguous the two properties shall be operated as one project and residents of the Scout Property shall have full use of and access to the same amenities and benefits as residents of the Senior Center Site.

301.1 Senior Center Site Improvements. The improvements on the Senior Center Site shall generally include:

(a) Two residential buildings containing a mix of studio and one-bedroom residential units with the exception of the one (1) two-bedroom Property Manager’s Unit, the residential units shall be restricted for rental to and occupancy by Low Income Households, Very Low Income Households, and Extremely Low Income Households, at an Affordable Rent, for a period of fifty five (55) years, as more particularly set forth in the Affordable Housing Covenant attached hereto as Attachment 5. The actual mix of size/type of residential unit and

applicable affordability level shall be determined by the Parties no later than submittal of applications for the required land use entitlements in accordance with Section 302.1, and shall be reflected in the Affordable Housing Covenant recorded in the Official Records pursuant to Section 202.5. In no event shall the number of units constructed on the Senior Center Site and the Scout Property combined be less than 90 units.

(b) The demolition of the existing Senior Center on the Senior Center Site and the construction of a replacement Senior Center cold shell. The City shall own the Senior Center cold shell in fee, and Developer shall ensure the creation of a separate legal parcel for the Senior Center cold shell prior to or at Closing. Prior to Closing, the City and Developer shall mutually determine, subject to the Project's lender or investor requirements, whether to have the City retain its fee interest in the Retained Site throughout or to have it conveyed to Developer along with the Senior Center Site and then conveyed back to the City upon completion (but in any event, prior to the issuance of the Certificate of Completion). The replacement Senior Center cold shell shall be no less than 6,000 square feet and shall be located on the ground floor of Building A which will occupy the site of the existing Senior Center. Parking for the Senior Center shall be included in the parking required for the Project and the Senior Center shall have a separate exterior entrance. The replacement Senior Center shall be delivered to the City as a cold shell which shall include rough-in utilities for no less than the number of restrooms and stalls in the existing Senior Center, kitchen, and program space, exposed walls studs, unfinished floors, and an exposed ceiling. Electrical, mechanical, and plumbing systems will be stubbed out for future uses, including restrooms, an office, storage, program space, and a kitchen to accommodate the Meals on Wheels program. Within the time set forth in the Schedule of Performance Developer shall submit to the City a preliminary cost estimate reasonably acceptable to the City Manager for the completion of the improvements to the Senior Center necessary to obtain a certificate of occupancy. Once the cold shell of the Senior Center has been completed the City shall be provided with access to the Senior Center to complete the City's interior improvements. All exterior maintenance and repair of the building in which the Senior Center is located along with all related exterior improvements including pathways, parking, and landscaping shall be the responsibility of the Developer, provided, however, that City shall share in the ongoing maintenance costs for the shared amenities, as shall be further set forth in the REA (defined below). There shall be no restrictions on the City's use of the Senior Center, including the right of the City to lease or rent the Senior Center to third parties for private events that may have amplified music and that may serve alcohol. Notwithstanding the foregoing, the City agrees that its use of the Senior Center shall be subject to reasonable operation rules appropriate for a residential development, including but not limited to the requirement that the hours that the Senior Center is available for use will be the same as the hours of the adjacent public library. Prior to completion of the Senior Center, Developer and City shall enter into an operating and management agreement that will set forth the reasonable operation rules for the Senior Center, which rules shall be subject to the City's prior consent, which consent shall not be unreasonably withheld or delayed. The Senior Center shall be depicted on the Schematic Plans and Construction Plans and be subject to approval by the City Manager, which approval shall not be unreasonably withheld, including the location of the mechanical and plumbing systems. On or prior to Closing, City and Developer shall enter into a reciprocal easement agreement ("REA") that will address the shared access and use of the shared building systems and exterior amenities for the Senior Center Site, including but not limited to ensuring City has access for the drop off loop in front of the Senior Center and the City gym.

(c) In addition to the number of parking spaces required for the Project, Developer shall also construct a minimum of 110 parking spaces in the surface parking lot and a podium parking structure on the Senior Center Site. A portion of the surface parking spaces and the parking spaces in the podium parking structure shall all be accessible both by residents of the Project and the public, with the exact number of overall spaces, as well as the exact number of spaces open to the public, to be mutually determined no later than submittal of applications for the required land use entitlements in accordance with Section 302.1. The Subdivision Map will include the dedication of a public access and use easement, in an agreement to be mutually agreed upon by the City and Developer no later than submittal of development applications for the required land use entitlements in accordance with Section 302.1.

(d) Developer shall construct an approximately nineteen thousand (19,000) square foot tree-lined pedestrian promenade designed as a town square (“**Pedestrian Promenade**”). Developer and City shall mutually determine prior to completion of the Subdivision Map whether the City will own the Pedestrian Promenade or whether the Developer will retain ownership of the Pedestrian Promenade, in which case Developer shall dedicate a public access and use easement to the City pursuant to an easement agreement to be mutually agreed upon by the City and Developer. In the event that the Developer owns the Pedestrian Promenade, City acknowledges that Developer may establish a list of rules and requirements regarding the use of the Pedestrian Promenade, which shall be subject to the prior consent of the City, which consent shall not be unreasonably withheld or delayed provided such rules and requirements are reasonable and consistent with rules and requirements applicable to other publicly accessed privately owned areas similar to the Pedestrian Promenade and provided further that such rules and requirements do not prevent public access to the adjacent public facilities during times that they are open and operating, except in the case of emergencies or dangerous conditions.

(e) In the event that Development of the Project results in the demolition of the existing public restroom located on K Street adjacent to the Senior Center Site Developer shall construct a replacement public restroom of at least the same number of square feet and amenities as the existing public restroom being demolished.

(f) Developer shall allow for the installation of public art at a minimum of two locations on the Senior Center Site the locations and details of which to be determined through Design Review.

(g) Developer shall also dedicate an easement to the City for the drop off loop in front of the Senior Center and the City gym. Easements shall also be dedicated to the City for storm drainage, waste water, and water facilities as set forth on the Subdivision Map.

301.2 Scout Property Improvements. The improvements on the Scout Property shall generally include:

(a) One residential building containing a mix of one-bedroom units and studios, and one (1) two-bedroom unit, and surface parking spaces in accordance with the Project Approvals. With the exception of the one two-bedroom (1) Property Manager’s Unit, the residential units shall be restricted for rental to and occupancy by Low-Income Households, Very Low-Income Households, and Extremely Low-Income Households, at an affordable rent, for a period of fifty-five (55) years, as more particularly set forth in the Affordable Housing Covenant

attached hereto as Attachment 5. In no event shall the number of units constructed on the Scout Property and Senior Center Site combined be less than 90 units.

(b) The City plans to install frontage improvements on 4th Street and L Street adjacent to the Scout Property for the benefit of the Project. These improvements generally include curbs, gutters, and sidewalks and will include areas for the installation of landscaping by the Developer. The Developer shall be responsible for the maintenance and repair of these improvements and the landscaping. Notwithstanding the foregoing, the City is under no obligation to the Developer to install these improvements.

301.3 Project Improvements. Developer shall develop and construct the Project Improvements in accordance with this Agreement, the Approvals and any Conditions of Approval required by City, the MMRPs as applicable, and those plans, drawings and documents (including Construction Drawings) submitted by Developer and approved by City, as applicable, all as provided herein. All work of Project Improvements shall be performed in a first-class, workmanlike manner by qualified, professional contractor(s) duly licensed in California and in good standing under applicable Laws.

302. Development Approvals.

302.1 Project Approvals. Developer acknowledges that the execution of this Agreement by the City does not constitute City's approval for the Project and does not relieve Developer from the obligation to apply for and to obtain from the City and all other agencies with jurisdiction over the Property, all necessary approvals, entitlements, and permits for the construction of the Project (including design review and approval of the Subdivision Map, and the approval of the Project after compliance with the California Environmental Quality Act ("CEQA") and if applicable, NEPA), nor does it limit in any manner the discretion of the City or any other agency in the approval process (the "**Project Approvals**"). Developer shall submit an application or applications to the City for the Project Approvals including all information required by the City's application checklist within the time set forth in the Schedule of Performance. Developer shall pay when due all customary and reasonable fees and charges in connection with the processing of all applicable permits and approvals. Developer shall not commence any grading, demolition, or construction work related to the Project prior to issuance of building permits required for such work. Developer shall, at its sole cost, construct and install the Project Improvements in accordance with the Project Approvals, the MMRP, and any Conditions of Approval imposed in connection with such Project Approvals, any Subsequent Project Approvals, and the Construction Drawings to be submitted by Developer and approved by City as provided in Section 304.2.

302.2 Subsequent Project Approvals. Certain land use approvals, entitlements, and permits, may be necessary or desirable for implementation of the Project Improvements after issuance of the Project Approvals ("**Subsequent Project Approvals**").

302.3 Subdivision Map. Within the time set forth in the Schedule of Performance Developer shall prepare a plat map and legal description of the portion of the Senior Center Site to be conveyed by the City to the Developer removing those portions of the Senior Center Site that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, (the "**Senior Center Conveyance Parcel**") and the Retained Site. Developer shall, at its sole cost and expense, be responsible for preparation of all required surveys and maps to create

the Senior Center Conveyance Parcel and the Retained Site as separate legal parcels. The boundaries of the Senior Center Conveyance Parcel and the Retained Site are subject to the review and approval of the City Manager which approval will not be unreasonably withheld.

302.4 Green-Building Measures. Developer shall design the Project to meet the minimum green building measures required by any funding sources.

302.5 Underground Utilities. Developer shall use best efforts to avoid the placement of any permanent structures over existing or new public utilities. If unavoidable, developer shall relocate the impacted utilities or provide protection measures for impacted utilities to the satisfaction of the City Engineer at their cost.

302.6 Other City Uses. Developer acknowledges and agrees that numerous City uses and facilities operate in the immediate vicinity of the Site. Developer further acknowledges and agrees that development and construction of the Project Improvements will be done in a manner to minimize impacts to the other City uses and facilities including, the City Library, City Hall, City Police Department, City gymnasium, public tennis courts, and bocce ball courts.

303. Schedule of Performance. Subject to the provisions of Section 702 hereof, Developer shall commence and complete construction of the Project Improvements and satisfy all other obligations and conditions of this Agreement with respect thereto within the times established in the “**Schedule of Performance**,” attached hereto as Attachment No. 4. “**Commence Construction**” or “**Commencement of Construction**” shall be deemed to have occurred when City has issued one or more permits for the construction of the Project Improvements and Developer has commenced excavation and grading on the Site in reliance on the permits issued; and such date shall be memorialized in writing by the parties. “**Complete Construction**” or “**Completion of Construction**” shall be deemed to have occurred when Developer has completed the work of the Project Improvements in conformity with this Agreement and therefore has the right to submit a request for a Certificate of Completion to City pursuant to Section 310. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between Developer and the City Manager, and the City Manager is authorized to make such revisions from time to time as he or she deems reasonably necessary. The foregoing notwithstanding, the City Manager has no authority to revise the Outside Date without the consent and approval of the City Council.

304. City’s Review of Project Plans and Revisions.

304.1 Schematic Plans. Within the time set forth in the Schedule of Performance, Developer shall prepare and submit to City schematic plans which illustrate the overall development concept of the Project Improvements (“**Schematic Plans**”). Prior to the submittal of the Schematic Plans to the Planning Commission for design review the City Manager shall review and approve the Schematic Plans which approval shall not be unreasonably withheld or delayed. Developer agrees to cooperate with the City, at no cost to the Developer, to include the City’s interior improvements to the Senior Center as part of the Project plans, provided, however, that Developer shall not be responsible for any costs related to the interior improvements to the Senior Center beyond Developer’s obligation to provide the cold shell in accordance with Section 301.1.

304.2 Construction Drawings and Related Documents. Within the time set forth in the Schedule of Performance, Developer shall prepare and submit to City detailed

construction drawings and plans with respect to the Project Improvements, including a grading plan, which shall be consistent with the Schematic Plans and be prepared by a registered civil engineer and/or licensed architect (“**Construction Drawings**”).

304.3 Revisions. If, after approval of the Construction Drawings, Developer desires to propose any material revisions to such Construction Drawings, it shall submit such proposed changes to City, and shall also proceed in accordance with any and all Laws regarding such revisions. If the Construction Drawings, as modified by the proposed material change, generally and substantially conform to the Schematic Plans and the Project Improvements, the City Manager shall review the proposed material change and notify Developer in writing within fifteen (15) days after submission to City as to whether the proposed change is approved or disapproved; provided, however, that the City Manager is authorized to and shall approve changes to the approved Construction Drawings provided such changes do not reduce the number or size of the Affordable Units or significantly reduce the quality of materials to be used, as determined by the City Manager in his or her reasonable discretion. In the event that the City Manager does not provide the written response within fifteen (15) days, Developer shall notify the City in writing of the lack of response and the City Manager shall have an additional fifteen days to provide the response; if no response is provided within the additional fifteen (15) day period the change will be deemed approved. Any and all change orders or revisions required by City and its inspectors which are required under City Municipal Code and all other applicable codes (e.g., Building, Plumbing, Fire, Electrical, etc.) and Laws shall be included by Developer in its Construction Drawings and completed during construction of the Project Improvements.

304.4 Consultation and Coordination. During preparation of the Construction Drawings, City staff and Developer shall hold progress meetings on an as-needed basis to coordinate the preparation, submission, and review of such Construction Drawings. City staff and Developer shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any documents to City can receive timely and thorough consideration.

304.5 Defects in Plans. City shall not be responsible to Developer or to any third parties in any way for (i) any defects in any Schematic Plans or Construction Drawings, (ii) any defects in any of the Project Improvements, or (iii) any structural or other defects in any work done according to the approved Schematic Plans or Construction Drawings.

305. Construction Requirements.

305.1 General Contractor; Construction Contract. Within the time established in the Schedule of Performance, Developer shall notify City of the Developer’s selection of a general contractor and the final construction contract (“**Construction Contract**”), which shall be a guaranteed maximum price contract in a form acceptable to City. The City Manager shall approve or disapprove the proposed general contractor and the Construction Contract for the Project Improvements within the time established in the Schedule of Performance. The City Manager shall not withhold approval of a proposed general contractor who in the reasonable opinion of the City Manager is financially capable and has the qualifications and experience to perform its duties and obligation under a guaranteed maximum price contract acceptable to City. Developer agrees to cooperate with the City in the City’s use of Developer’s contractor to construct the City’s interior improvements and build out of the Senior Center.

305.2 Costs of Development and Construction. All costs of preparing the Site, and planning, designing, permitting, and constructing the Project Improvements shall be borne solely by Developer.

305.3 Construction Oversight. City may retain a third party consultant to monitor the construction, and ensure that Developer maintains adequate funding for completion of the Project Improvements.

305.4 Construction Reports. Upon Commencement of Construction and until Completion of Construction, Developer shall submit to City written progress reports of the construction within five (5) days following City's request (not to be made more frequently than once a month). The progress reports shall be in such form and detail as may reasonably be required by City for proper review and oversight of the Project Improvements, and shall include a reasonable number of construction photographs taken since the last submitted progress report to visualize progress on the construction of the Project Improvements.

306. Insurance Requirements. Developer shall take out and maintain, and/or shall cause its contractor to take out and maintain, throughout the term of this Agreement, a commercial general liability policy in an amount not less than Two Million Dollars (\$2,000,000) combined single limit, including contractual liability together with a comprehensive automobile liability policy in the amount of One Million Dollars (\$1,000,000), combined single limit. Such policy or policies shall be written on an occurrence form. During any period in which construction is being undertaken, Developer shall maintain or shall cause its contractor to maintain builder's all-risk insurance in an amount not less than the full insurable value of the Project Improvements under construction on a replacement cost basis; and Developer, shall cause to be furnished to City evidence reasonably satisfactory to City that any contractor with whom Developer has contracted for the performance of work on the Site carries workers' compensation insurance as required by law. Companies writing the insurance required hereunder shall be approved to conduct business in the State of California. Developer's insurance shall be placed with insurers with a current A.M. Best's rating of no less than A-:VII. Developer shall furnish appropriate certificate(s) of insurance evidencing the insurance coverage required hereunder, and City and its officers, elected and appointed officials, and employees (collectively, "**City Parties**") shall be named as additional insured parties under the liability policies required hereunder. The certificate of insurance shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination (ten (10) days advance notice in the case of cancellation for nonpayment of premiums), if the insurance carrier provides such notices in its normal course of business. Coverage provided hereunder by Developer shall be primary insurance and shall not be contributing with any insurance, self-insurance or joint self-insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of City. The required certificate and endorsements shall be furnished by Developer to City within the time provided in the Schedule of Performance, and throughout the term of the Agreement within ten (10) business days following City's request therefor.

307. Rights of Access. During the period of construction of the Project Improvements, representatives of City shall have the reasonable right of access to the Site, without charges or fees, at normal construction hours for the purposes of inspecting the Site and Project Improvements

being constructed thereon and ensuring compliance with this Agreement, so long as City and its representatives comply with all safety and security rules. City and its representatives shall, except in emergency situations, notify Developer at least twenty-four (24) hours in advance of exercising its rights pursuant to this Section 307. Nothing herein shall be deemed to limit the ability of City to conduct code enforcement and other administrative inspections of the Site and Project Improvements in accordance with applicable Laws.

308. Compliance with Laws.

308.1 Compliance with Laws. Developer shall carry out the construction of the Project Improvements and all other work pursuant to this Agreement in conformity with all applicable Laws. All such work shall be performed by one or more qualified contractors duly licensed in and in good standing under the laws of the State of California.

308.2 Prevailing Wage Requirements.

(a) Developer acknowledges and agrees that the Project Improvements may constitute “public works” as defined in Labor Code Section 1720 in that such Project Improvements may involve construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds under Labor Code Section 1720, *et seq.* (“**State Labor Code**”); however, depending on Project Financing, the Project Improvements may nevertheless be exempt from the requirements of the State Labor Code. Accordingly, in the event the Project Improvements to be constructed remain subject to the requirements of the State Labor Code, Developer shall comply with all applicable State Labor Code requirements, including provisions requiring the payment of prevailing wages in connection with construction of the Project Improvements. If applicable, Developer shall require its general contractor to post at the Site prevailing wage rates for all applicable trades and to submit copies of payroll records to Developer to ensure compliance with State Labor Code requirements pertaining to “public works.” Developer shall provide such payroll records to City promptly following City’s request therefor. Developer shall also include in the Construction Contract with its general contractor a provision, in a form reasonably acceptable to City, obligating such general contractor to require its contractors and/or subcontractors to comply with all State Labor Code requirements pertaining to “public works” (as defined in Labor Code section 1720). If Developer receives federal funding or assistance and the financing source requires compliance, Developer shall also comply with any applicable federal labor requirements, including the Davis-Bacon Act of 1931 as codified in 40 U.S.C §§ 3141 through 3148 (“**Davis-Bacon**”).

(b) If applicable, Developer shall defend (with counsel reasonably acceptable to City) City and City Parties from and against any and all Claims made by a third party or parties arising out of Developer’s obligation to comply with all State Labor Code and Davis-Bacon requirements pertaining to public works and payment of prevailing wages in connection with the Improvements, as required pursuant to the immediately preceding paragraph, and indemnify and hold harmless City and City Parties with respect to all final judgments or settlements in actions brought by any “contractor” in which City is (i) determined to be an “awarding body” and (ii) damages are awarded, pursuant to Labor Code sections 1726 or 1781 or applicable portions of Davis-Bacon. Developer’s indemnity obligations under this Section 308.2 shall survive expiration or termination of this Agreement and issuance of the Certificate of Completion.

(c) Developer hereby waives, releases and discharges forever City and City Parties from any and all present and future Claims arising out of or in any way connected with Developer's obligation to comply with all State Labor Code and Davis-Bacon requirements pertaining to public works and payment of prevailing wages pursuant to the first paragraph of this Section 308.2.

309. Taxes and Assessments. During its period of ownership of the Site and the Project Improvements thereon, Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site and the Project Improvements thereon, or any portion thereof, subject to Developer's right to contest in good faith any such taxes or seek a welfare exemption. Developer shall remove or have removed any levy or attachment made on the Site or the Project Improvements thereon or any part thereof; or shall assure the satisfaction thereof within thirty (30) days following the date of attachment or levy.

310. Certificate of Completion. Following Developer's satisfactory completion of the work of Project Improvements, as evidenced by City's issuance of a certificate of occupancy, Developer may request that City issue the Certificate of Completion with respect to such work. The "**Certificate of Completion**" shall be substantially in the form of Attachment No. 8 attached hereto. City shall not unreasonably withhold the Certificate of Completion. If City refuses or fails to furnish the Certificate of Completion, City shall, within ten (10) business days after Developer's written request therefor, provide Developer with a written statement of the reasons City refused or failed to furnish the Certificate of Completion. The statement shall also contain City's opinion of the actions Developer must take to obtain the Certificate of Completion. The Certificate of Completion shall be a conclusive determination of Developer's satisfactory completion of the work of Project Improvements. Any party then owning or thereafter purchasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, or acquisition) incur any obligation or liability under this Agreement, except for those continuing covenants as set forth in the Affordable Housing Covenant. Notwithstanding anything in this Agreement to the contrary, the Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to the holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the construction of the Project Improvements, or any part thereof; nor shall the Certificate of Completion constitute a notice of completion as referred to in section 3093 of the California Civil Code.

311. Mortgage and Deed of Trust Financing.

311.1 No Encumbrances Except Mortgages and Deeds of Trust. Prior to issuance of the Certificate of Completion, mortgages, deeds of trust and any other financing instrument will be permitted on the Site only for the purpose of financing construction and development of the Project Improvements (including but not limited to, design, planning, permitting, remediation, site preparation and horizontal and vertical construction). Following issuance of the Certificate of Completion, mortgages, deeds of trust and any other financing instrument shall be permitted for any purpose, and City shall have no approval or disapproval rights with respect thereto. The words "mortgage" and "deed of trust" as used herein shall include sale and lease-back financing.

311.2 Holder Not Obligated to Construct Project Improvements. The holder of any mortgage or deed of trust on the Site shall not be obligated by the provisions of this

Agreement to construct or complete the Project Improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to or be construed to permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon other than those uses and Project Improvements provided for or authorized by this Agreement, the Affordable Housing Covenant, and the Project Approvals.

311.3 Notice of Default to Mortgagee or Deed of Trust Holders; Right to Cure. With respect to any mortgage, deed of trust or other financing instrument granted by Developer on the Site, whenever City shall deliver any Notice or demand to Developer with respect to any breach or default by Developer hereunder, City shall at the same time deliver to each holder of record of any mortgage, deed of trust or other financing instrument on the Site a copy of such Notice or demand. No Notice of default shall be effective as to the holder unless such Notice is given. Each such holder shall (insofar as the rights of City are concerned) have the right, at its option, within one hundred twenty (120) 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 mortgage debt and the lien of its mortgage. In the event possession of the Site (or portion thereof) is required to effectuate such cure or remedy, the holder shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within one hundred twenty (120) days, diligently pursues such proceedings to completion, and, after obtaining possession, diligently completes such cure or remedy (the foregoing time periods being subject to extension during the period that such holder is precluded from taking or pursuing any such action as a consequence of any bankruptcy stay or other court order). Nothing in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project Improvements (beyond the extent necessary to conserve or protect such Project Improvements or construction already made) without first having expressly assumed Developer's obligations to City by written agreement reasonably satisfactory to City. Any such holder properly completing such Project Improvements shall be entitled, upon compliance with the requirements of Section 310, to a Certificate of Completion.

400. COVENANTS, RESTRICTIONS AND AGREEMENTS

401. Use Covenants. The Site shall be used as a senior citizen housing development as defined by Section 51.3 of the California Civil Code for a period of fifty-five (55) years. All uses on the Site shall conform to the Project Approvals, this Agreement, and the Affordable Housing Covenant.

402. Affordable Units. As more particularly set forth in the Affordable Housing Covenant, all of the residential units constructed on the Site (with the exception of one (1) unit on the Senior Center Site and one (1) unit on the Scout Property which shall be reserved for the Property Manager [as defined in the Affordable Housing Covenant]) shall be rented to and occupied by an Eligible Household at an Affordable Rent (each, an “**Affordable Unit**” and, collectively, the “**Affordable Units**”).

402.1 Rent and Income Restrictions. As more particularly set forth in the Affordable Housing Covenant, the Affordable Units shall be rented to and occupied by Eligible Households at Affordable Rents for a period of fifty-five (55) years.

402.2 General Requirements for Affordable Units. As more particularly set forth in the Affordable Housing Covenant, the affordable units on the Site shall be made available

only to Extremely Low-, Very Low-, and Low-Income Households. The two-bedroom unit on the Senior Center Site and the two-bedroom unit on the Scout Property shall be rented to and occupied by the Property Manager (the “**Property Manager Unit**”), who is required to reside on the premises pursuant to Section 402.5 below, however, the rental of the Property Manager Unit to the Property Manager shall not be subject to the income and rent restrictions set forth herein. The Parties acknowledge and agree that the final unit mix and count will be mutually agreed upon prior to submission of an application for the Project Approvals, and in no event shall be less than 90 units.

402.3 Marketing of Affordable Units. Developer shall be responsible for marketing the Affordable Units, as more particularly set forth in the Affordable Housing Covenant. Within the time established in the Schedule of Performance, Developer shall submit to City a residential marketing plan, in a form acceptable to City and consistent with the provisions of the Affordable Housing Covenant (“**Marketing Plan**”). The City Manager shall approve or disapprove the proposed Marketing Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Marketing Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Marketing Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Marketing Plan initially submitted to City.

402.4 Supportive Services to Residents. Developer shall be responsible for ensuring that adequate supportive services are provided to residents of the Affordable Units, as more particularly set forth in the Affordable Housing Covenant. Within the time established in the Schedule of Performance, Developer shall submit to City a residential supportive services plan, in a form acceptable to City and consistent with the provisions of the Affordable Housing Covenant (“**Supportive Services Plan**”). The City Manager shall approve or disapprove the proposed Supportive Services Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Supportive Services Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Supportive Services Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Supportive Services Plan initially submitted to City.

402.5 On-Site Property Manager; Site Management Plan. Developer shall be responsible for ensuring that a person with the requisite skill and experience managing multi-family residential developments (“**Property Manager**”) lives on the Senior Center Site and the Scout Property in the Property Manager Units. Further, Developer shall be responsible for addressing in detail their plan to provide for the maintenance, repair (both routine and extraordinary), and rehabilitation of the Affordable Units, replacement of capital items in the Affordable Units, and implementation of the requirements of the Conditions of Approval (“**Site Management Plan**”). Within the time established in the Schedule of Performance, Developer shall submit to City a Site Management Plan. The City Manager shall approve or disapprove the proposed Site Management Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Site Management Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Site

Management Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Site Management Plan initially submitted to City.

403. Maintenance Covenants. Developer hereby covenants and agrees that it shall be responsible for ensuring that the Project Improvements on the Site are maintained in a clean and orderly condition and in good physical and aesthetic condition and repair, consistent with other affordable, first class senior living facilities, and that the Site shall be kept in a decent, safe, sanitary, habitable and tenantable living condition, free from any accumulation of debris, waste, unmaintained landscaping, graffiti, disrepair, abandoned vehicles and appliances, and illegal activity, and in conformity with all applicable federal, state and local laws, ordinances, codes and regulations, including the Conditions of Approval. Separate metering of utilities for the Senior Center will be provided, including metering for water and electric.

404. Nondiscrimination Covenants.

404.1 No Discrimination. Developer covenants by and for itself and any successors in interest 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, any improvements thereon, or any part thereof, nor shall the grantee or any person claiming under or through Developer, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants and all other provisions of this Section 404 shall run with the land and shall be contained in each subsequent grant deed conveying title to the Site, any improvements thereon, or any part thereof, to any subsequent owner, and the provisions of this Section 404 shall survive expiration or other termination of this Agreement.

404.2 Nonsegregation Clause. Developer shall refrain from restricting the rental, sale or lease of the Site or any improvements thereon, or any part thereof, 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 deeds, leases or contracts for the rental, sale or lease of the Site or any improvements thereon, or any part thereof, made by Developer after the Date of Agreement, shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds:

“(1) The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there will 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 premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

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

(b) In leases:

“(1) 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 premises 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 premises herein leased.

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

(c) In contracts:

“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 premises, nor shall the transferee 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, subtenants, sublessees or vendees of the premises.”

405. Affordable Housing Covenant. Developer’s covenants with respect to the development, use, maintenance, and operation of the Site shall be more particularly set forth in the Affordable Housing Covenant, which shall run with the land and be binding on Developer and its successors and assigns for the period of time set forth therein.

405.1 Within the time provided in the Schedule of Performance, the Affordable Housing Agreement and Declaration of Restrictive Covenants (“**Affordable Housing Covenant**”), attached hereto as Attachment No. 5, shall be executed and acknowledged by City and Developer, subject to non-substantive formatting and/or clerical modifications, and delivered into Escrow for recordation in the Official Records. Further, prior to Closing, City and Developer shall agree on the allocation of studio and one-bedroom units to Extremely Low Income Households, Very Low Income Households, Low-Income Households as provided in Section 2.2 of the Affordable Housing Covenant, which allocation shall otherwise conform with the requirements of California Government Code Section 54221(f)(1)(F). The Affordable Housing Covenant shall be recorded against the Site immediately following delivery and recordation of the Grant Deed and shall have priority over the liens of all mortgages, deeds of trust and other liens (other than the lien for current, unpaid property taxes). If requested by the City, Developer shall cause any or all such mortgagees, deed of trust beneficiaries and other lien holders to execute and deliver to Escrow for recordation in the Official Records a subordination agreement in a form reasonably acceptable to City unconditionally subordinating such mortgages, deeds of trust and other liens to the Affordable Housing Covenant (“**Subordination Agreement – Affordable Units**”).

406. Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction. City is deemed the beneficiary of the terms and provisions of this Agreement, including the Affordable Housing Covenant, and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement, including the Affordable Housing Covenant, and the covenants running with the land have been provided, without regard to whether City has been, remains or is an owner of any land or interest therein in the Site. City shall have the right, if this Agreement, Affordable Housing Covenant, or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement, Affordable Housing Covenant and covenants may be entitled. The covenants contained in this Agreement shall remain in effect until the issuance of the Certificate of Completion, at which time they will all automatically terminate, except for the following:

(a) The covenants pertaining to the Affordable Units, use and maintenance of the Site and all Project Improvements thereon, as set forth in Sections 401, 402, 403, and 405, shall remain in effect for the time period set forth in the Affordable Housing Covenant.

(b) The covenants against discrimination, as set forth in Section 404 shall remain in effect in perpetuity.

500. FINANCIAL PROVISIONS

501. Preliminary Financing Report, Evidence of Financing, and Loan Closings.

501.1 Preliminary Financing Report. Within the time established in the Schedule of Performance, Developer shall prepare and submit to City its plan for debt financing that, coupled with the proposed equity financing, are sufficient to undertake the design and construction of the Project Improvements in accordance with this Agreement (“**Preliminary Financing Report**”). The Preliminary Financing Report shall include the following: (i) cost of design and construction of Project Improvements; (ii) initial amount to make up the annual capital reserve fund for replacement of Project Improvements; and (iii) private and public sources of funding for the design and construction of the Project Improvements, amount of funding to be provided by each source, and phasing and timing of funding applications, award and disbursements, including the sources of public funding (the “**Public Financing**”).

501.2 Evidence of Financing. Within the time established in the Schedule of Performance, Developer shall obtain and submit to City written evidence satisfactory to City that Developer has submitted applications for Public Financing and obtained firm commitments for debt and equity financing necessary to undertake the design and construction of the Project Improvements in accordance with this Agreement (“**Evidence of Financing**”). The Evidence of Financing shall include the following: (i) cost of construction of Project Improvements based on 100% Construction Drawings and a guaranteed maximum price Construction Contract; (ii) initial amount to make up the annual capital reserve fund for replacement of Project Improvements; and (iii) written evidence of private funding and Public Financing committed to the Project Improvements, amount of funding to be provided by each source, and phasing and timing of funding disbursements.

501.3 City Approval. The City Manager shall approve or disapprove the Preliminary Financing Report and Evidence of Financing within the times established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager shall reasonably disapprove any portion of the Preliminary Financing Report or Evidence of Financing, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval and, thereafter, Developer shall utilize good faith, diligent efforts to promptly obtain and submit to City a new Preliminary Financing Report or Evidence of Financing, as applicable. The City Manager shall approve or disapprove such new Preliminary Financing Report or Evidence of Financing in the same manner and within the same times established in the Schedule of Performance for the approval or disapproval of the Preliminary Financing Report or Evidence of Financing, as applicable, as initially submitted to City. In the event City disapproves Developer’s Preliminary Financing Report or Evidence of Financing or Developer fails to obtain and deliver the Preliminary Financing Report or Evidence of Financing to City as provided above,

then either party may terminate this Agreement as provided herein by Notice to the other party and, thereafter, neither party shall have any rights or obligations hereunder.

501.4 Loan Closings, Financing, and Notice of Default to City. Prior to or simultaneous with the Closing, Developer's construction loan(s) shall have closed and all other financing shall have been provided or committed to Developer. Developer shall ensure that any and all parties, public and private, providing financing for design and development of the Project Improvements shall provide written notice to City (concurrent with notice to Developer) of any breach or default of Developer under their respective financing documents. Notwithstanding anything to the contrary contained herein, if required by Developer's limited partner, the City may allow Closing to occur prior to construction finance closing, provided that City determines that all conditions to closing such financing are satisfied .

600. DEFAULTS AND REMEDIES

601. Default; Notice and Cure. Subject to permitted extensions of time as provided in Section 702, failure by either party to perform any action or covenant required by this Agreement within the time periods provided herein following Notice and expiration of any applicable cure period, shall constitute a "**Default**" under this Agreement. A party claiming a Default shall give written Notice of Default to the other party specifying the Default complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against the other party, and the other party shall not be in Default if (a) in the case of a monetary Default, such party cures the monetary Default within ten (10) business days following receipt of such Notice of Default, or (b) in the case of a non-monetary Default, such party cures, corrects or remedies the non-monetary Default within thirty (30) days following receipt of such Notice of Default, or if the non-monetary Default cannot reasonably be cured within such thirty (30) day period, said party commences to cure the non-monetary Default within said thirty (30) day period and thereafter completes such cure, correction or remedy with diligence.

602. Institution of Legal Actions. Except as otherwise specifically provided herein, upon the occurrence of a Default, and the expiration of the applicable cure period pursuant to Section 601 above, the non-defaulting party shall have the right, in addition to any other rights or remedies, to institute any action at law or in equity to cure, correct, prevent or remedy any Default, or to 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 Solano, State of California, or in the Federal District Court for the Northern District of the State of California. Notwithstanding anything herein to the contrary, a party's right to recover damages in the event of a Default by the other party shall be limited to recovery of actual damages and neither party shall have the right to recover any special, punitive, or consequential damages.

603. Termination. This Agreement may be terminated: (i) if there is an uncured Default, by written Notice from the party not in Default, (ii) if there is a failure of an express condition (which is not waived by the party whom the condition benefits) by Notice from the party whom the condition benefits, or (iii) in accordance with the provisions of Sections 202.4, 203, or 501.3 hereof. In the event that this Agreement is terminated due to an uncured default of City, City shall return any unexpended City Consultant Cost deposit to Developer.

604. Assignment of Developer Plans. In addition to City's other rights and remedies hereunder, upon City's request which may be made at any time following occurrence of a

Developer Default, Developer shall assign and deliver to City, without charge, all plans, drawings, designs, surveys, soils reports, engineering reports, environmental studies, specifications and cost estimates prepared by or on behalf of Developer in connection with the Project Approvals and Project Improvements (collectively, “**Developer Plans**”). Developer hereby agrees that City may use any such Developer Plans in connection with any similar project or other development of the Site. City shall have the right to work with all architects, engineers and other consultants retained by Developer or with whom Developer has worked in connection with the Project Approvals and Project Improvements, and Developer shall not discourage any such architects, engineers and other consultants from working with City. Developer’s obligations under this Section 604 shall survive expiration or termination of this Agreement.

605. Option to Repurchase. City shall have the additional right, at its option, to repurchase the Site or any portion thereof with all improvements thereon, if after Conveyance of the Site and prior to the issuance of the Certificate of Completion for the Project Improvements:

(a) **Failure to Commence Construction.** Developer fails to Commence Construction of the Project Improvements on the Site within the time set forth in the Schedule of Performance; or

(b) **Failure to Diligently Prosecute Construction to Completion.** Once Developer Commences Construction, Developer fails diligently to prosecute construction of the Project Improvements to completion within the time set forth in the Schedule of Performance; or

(c) **Abandonment.** Developer abandons or substantially suspends construction of the Project Improvements for a period of three (3) months after Developer’s receipt of written Notice of such abandonment or suspension from City; or

(d) **Unauthorized Sale or Transfer.** Developer directly or indirectly, voluntarily or involuntarily sells, assigns, transfers, disposes of or further encumbers or agrees to sell, assign, transfer, dispose of or further encumber or suffer to exist any other lien against all or any portion of or any interest in the Site which claim of lien is maintained for a period of thirty (30) calendar days without discharge, satisfaction thereof, or release through posting of bonds or other forms of security (“**Transfer**”), except in accordance with the terms of this Agreement. For the purpose of this provision, Transfer shall include, in addition to the common and ordinary meaning of those terms and without limiting their generality, transfers made to subsidiary or affiliated entities, and any “change in ownership” as that term is used from time to time in California real property taxation law, except as allowed under this Agreement.

This option shall be subordinate and subject to and be limited by and shall not defeat, render invalid or limit: (i) any mortgage, deed of trust or other security instrument permitted by this Agreement; or (ii) 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 option to purchase with respect to the Site or any portion thereof, City shall pay to Developer in cash an amount equal to: (i) the Purchase Price originally paid by Developer; plus (ii) the out-of-pocket costs actually incurred by Developer for labor and materials for the construction and design of the Project Improvements or that portion thereof existing at the time City exercises the option to purchase (exclusive of amounts financed by third parties, if any, to the

extent such financing obligations are assumed by City); less (iii) any net gains or net income withdrawn or made by Developer from the Site or such portion thereof or the Project Improvements thereon; and less (iv) the amount of unpaid liens on the Site or such portion thereof which City agrees to pay or assume, and any unpaid current or past-due installments of taxes or assessments against the Site or such portion thereof which City agrees to pay or assume (collectively, the “**Option Price**”).

In order to exercise such purchase option, City shall give Developer Notice of such exercise and Developer shall, within forty-five (45) days after Developer’s receipt of such Notice, provide City with a detailed accounting of all of Developer’s costs incurred as provided above, supported by executed contracts, invoices and evidence of payment. City, within thirty (30) days thereafter, shall pay to Developer in cash (through an escrow if desired by City) all sums owing pursuant to this Section 605, and Developer shall thereupon execute and deliver to City a grant deed transferring to City all of Developer’s interest in the Site or portion thereof and improvements thereon, as applicable. The foregoing notwithstanding, the City shall have the continuing right to conduct an audit of all of Developer’s records pertaining to the Option Price for a period of two (2) years following Developer’s execution and delivery to City of the grant deed; accordingly, Developer shall maintain accurate books and records supporting its costs of design, construction and installation of the Project Improvements until the earlier of (i) issuance of a Certificate of Completion for the Project Improvements or (ii) two years following termination of this Agreement.

606. Acceptance of Service of Process. If any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Manager or in such other manner as may be provided by law. If any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon Andrea Osgood, Chief of Real Estate Development and Executive Vice President, or in such other manner as may be provided by law.

607. Rights and Remedies Are Cumulative. Except as otherwise expressly provided herein, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other party, except as otherwise expressly provided herein.

608. Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

700. GENERAL PROVISIONS

701. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice (“**Notice**”) which either party may desire to give to the other party under this Agreement must be in writing and may be given by any commercially acceptable means, including via facsimile or via overnight courier, to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice. Any Notice shall be deemed received on the date of delivery if delivered

by hand or by first class mail, postage prepaid or if sent via nationally recognized overnight courier; and upon receipt of verification of transmission if sent via facsimile (provided a copy is sent the same day via first-class mail). Notices sent by a party's attorney on behalf of such party shall be deemed given by such party.

To City: City of Benicia
250 East L Street
Benicia, CA 94510
Attention: Mario Giuliani, City Manager
Telephone: (707)746-4289
Email: MGiuliani@ci.benicia.ca.us

With copies to: Burke, Williams & Sorensen, LLP
181 Third Street, Suite 200
San Rafael, CA 94901
Attention: Benjamin Stock, City Attorney
Telephone: (415) 755-2605
Email: bstock@bwslaw.com

To Developer: Eden Benicia Senior Investors LP

c/o Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: Tami Strauss
Telephone: (510) 931-8210
Email: tami.strauss@edenhousing.org

With a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Evan Gross, Esq.
Telephone: (415)781-6600 ext. 6
Email: egross@gubbbbarshay.com

702. Enforced Delay; Extension of Times of Performance. Subject to the limitations set forth below, performance by either party hereunder shall not be deemed to be in Default, and all performance and other dates specified in this Agreement, excepting the Outside Date, shall be extended, where delays or failures to timely perform are due to: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation; unusually severe weather; acts or omissions of the other party; or acts or failures to act on the part of City or any other public or governmental City or entity (other than the acts or failures to act of City which shall not excuse performance by City). An extension of time for any such cause shall be for the period of the enforced delay provided the party claiming such extension shall provide Notice to the other party within thirty (30) days of commencement of such cause and the total time period of such enforced delays shall in no event exceed eighteen (18) months. Any party claiming such extension shall notify the other(s) promptly after becoming aware of the existence of any

event or condition giving rise to such claim. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Developer, excepting the Outside Date. Developer expressly agrees that adverse changes in economic conditions, either of Developer specifically or the economy generally, changes in market conditions or demand, and/or Developer's inability to obtain financing or other lack of funding to complete the Project Improvements shall not constitute grounds of enforced delay pursuant to this Section 702. Developer expressly assumes the risk of such adverse economic or market changes and/or inability to obtain financing, whether or not foreseeable as of the Date of Agreement.

703. Successors and Assigns. Subject to the prohibitions set forth in Section 103 against changes in the ownership, management and control of Developer prior to issuance of the Certificate of Completion, all of the terms, covenants and conditions of this Agreement shall be binding upon Developer, and Developer's permitted successors and assigns. Whenever the term "**Developer**" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

704. Recordation of Memorandum of Agreement. Within the time provided in the Schedule of Performance, the "**Memorandum of Agreement**" shall be executed and acknowledged by City and Developer in the form attached as Attachment No. 3, and delivered into Escrow for recordation against the Site in the Official Records upon Closing.

705. Relationship Between City and Developer. It is hereby acknowledged that the relationship between City and Developer is not that of a partnership or joint venture and that City and Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein or in the Attachments hereto, City shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Site or the Project Improvements.

706. City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by City, the City Manager is authorized to act on behalf of City unless specifically provided otherwise or the context would require otherwise. The City Manager is hereby authorized to extend times for performance set forth in the Schedule of Performance and to make other minor changes to this Agreement, and to negotiate and execute such other agreements as are called for in this Agreement, or that are necessary to carry out the intent of this Agreement. Except as otherwise provided in this Agreement, whenever City is required to provide an approval or disapproval, City shall give such approval or disapproval within fifteen (15) business days of a Developer's request. If City fails to give such approval or disapproval with such 15-business day period, the request shall be deemed disapproved. Notwithstanding anything herein to the contrary, any change or modification to the Outside Date shall require an amendment to this Agreement approved by the City Council, which approval may be granted or denied in its sole discretion.

707. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

708. Integration and Incorporation by Reference. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or

written, are merged in this Agreement and shall be of no further force or effect. All Attachments to this Agreement are incorporated herein by reference.

709. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. Reference to section numbers is to sections in this Agreement, unless expressly stated otherwise.

710. Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word “including” shall be construed as if followed by the words “without limitation.” This Agreement shall be interpreted as though prepared jointly by City and Developer.

711. Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

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

713. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day and including the last day, unless the last day is a holiday, Saturday or Sunday, or a Friday on which City offices are closed, and then that day is also excluded. The term “holiday” shall mean all holidays recognized by the City. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

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

715. Time of Essence. Time is of the essence with respect to the performance by City and Developer of each and every obligation and condition of this Agreement.

716. Cooperation. Each party agrees to cooperate with the other in this transaction and, in that regard, shall execute any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement. In addition, Developer agrees to cooperate with City in obtaining grant funding for the build out of the Senior Center on the Retained Site.

717. Conflicts of Interest. No member, official or employee of 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 the Agreement which 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.

718. Time for Acceptance of Agreement by City. This Agreement, when approved by the City Council, executed by Developer and delivered to City, must be authorized, executed and delivered by City on or before forty-five (45) days after signing and delivery of this Agreement by Developer or this Agreement shall be void, except to the extent that Developer shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement by City.

719. Developer's Indemnity. Developer shall defend (with counsel reasonably acceptable to City), indemnify, assume all responsibility for, and hold City and City Parties harmless from all Claims arising directly or indirectly from: (a) any of Developer's acts, omissions, negligence or willful misconduct, whether such acts, omissions, negligence or willful misconduct be by Developer or by anyone directly or indirectly employed or contracted with by Developer, and (b) performance of the work of Project Improvements (including design, development, and construction); whether such Claims shall accrue or be discovered before or after expiration or termination of this Agreement or issuance of a Certificate of Completion. Developer's indemnity obligations under this Section 719 shall not extend to Claims to the extent occasioned by the active negligence or willful misconduct of City Parties nor shall it extend to Claims solely related to the design, development or construction of the build out of the Senior Center. Notwithstanding the foregoing sentence, Developer shall be required to defend City and City Parties against any and all Claims, regardless of the extent to which (or if at all) City or any City Parties is or are alleged or found to have partially caused or contributed to the Claim. The provisions of this Section 719 shall survive termination or expiration of this Agreement or any portion thereof.

720. Nonliability of Officials and Employees of City. No member, official or employee of City or City Parties shall be personally liable to Developer, or any successor in interest, in the event of any Default or breach by City or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement. Developer hereby waives and releases any claim it may have against the members, officials or employees of City with respect to any Default or breach by City or for any amount which may become due to Developer or its successor, or on any obligations under the terms of this Agreement.

721. Assignment by City. City may assign or transfer any of its rights or obligations under this Agreement with the approval of Developer, which approval shall not be unreasonably withheld; provided, however, that City may assign or transfer any of its interests hereunder to any entity controlled by City at any time without the consent of Developer.

722. Applicable Law. The laws of the State of California, without regard to conflict of laws principles, shall govern the interpretation and enforcement of this Agreement.

723. Cooperation in the Event of Legal Challenge. City and Developer, at Developer's sole cost and expense, shall cooperate in the event of any court action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, and City shall, upon request of Developer, appear in the action and defend its decision. To the extent Developer determines to contest or defend such litigation challenges or requests that City cooperate in those defense efforts, Developer shall reimburse City, within ten (10) days

following City's written demand therefor, which may be made from time to time during the course of such litigation, all costs incurred by City in connection with the litigation challenge, including City's administrative, legal and court costs. If Developer opts to defend any such legal challenge, Developer shall indemnify, defend, and hold harmless City and City Parties from and against any Claims assessed or awarded against City by way of judgment, settlement, or stipulation. Nothing herein shall authorize Developer to settle such legal challenge on terms that would constitute an amendment or modification of the Project Approvals or this Agreement, unless such amendment or modification is approved by the City Council in accordance with applicable legal requirements, and City reserves its full legislative discretion with respect thereto.

[Signatures follow on next page]

IN WITNESS WHEREOF, City and Developer have executed this Agreement on the respective dates set forth below.

Dated: _____
[Date of Agreement]

CITY:

CITY OF BENICIA,
a California municipal corporation

By: _____
Mario Giuliani, City Manager

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

Dated: _____

DEVELOPER:

Eden Benicia Senior Investors LP,
a California limited partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

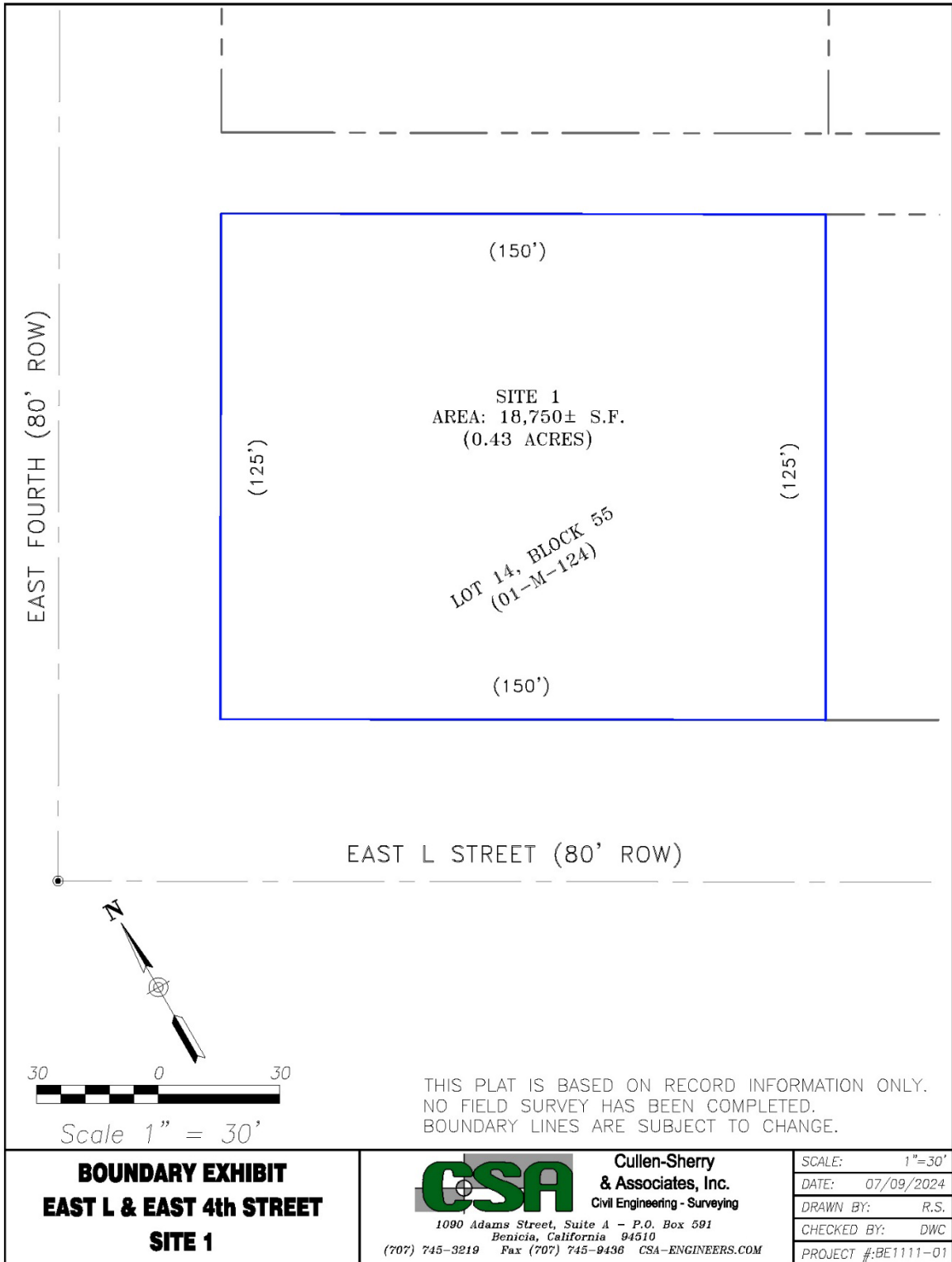
By: EDEN HOUSING, INC.,
a California non-profit public benefit corporation, its
sole member/manager

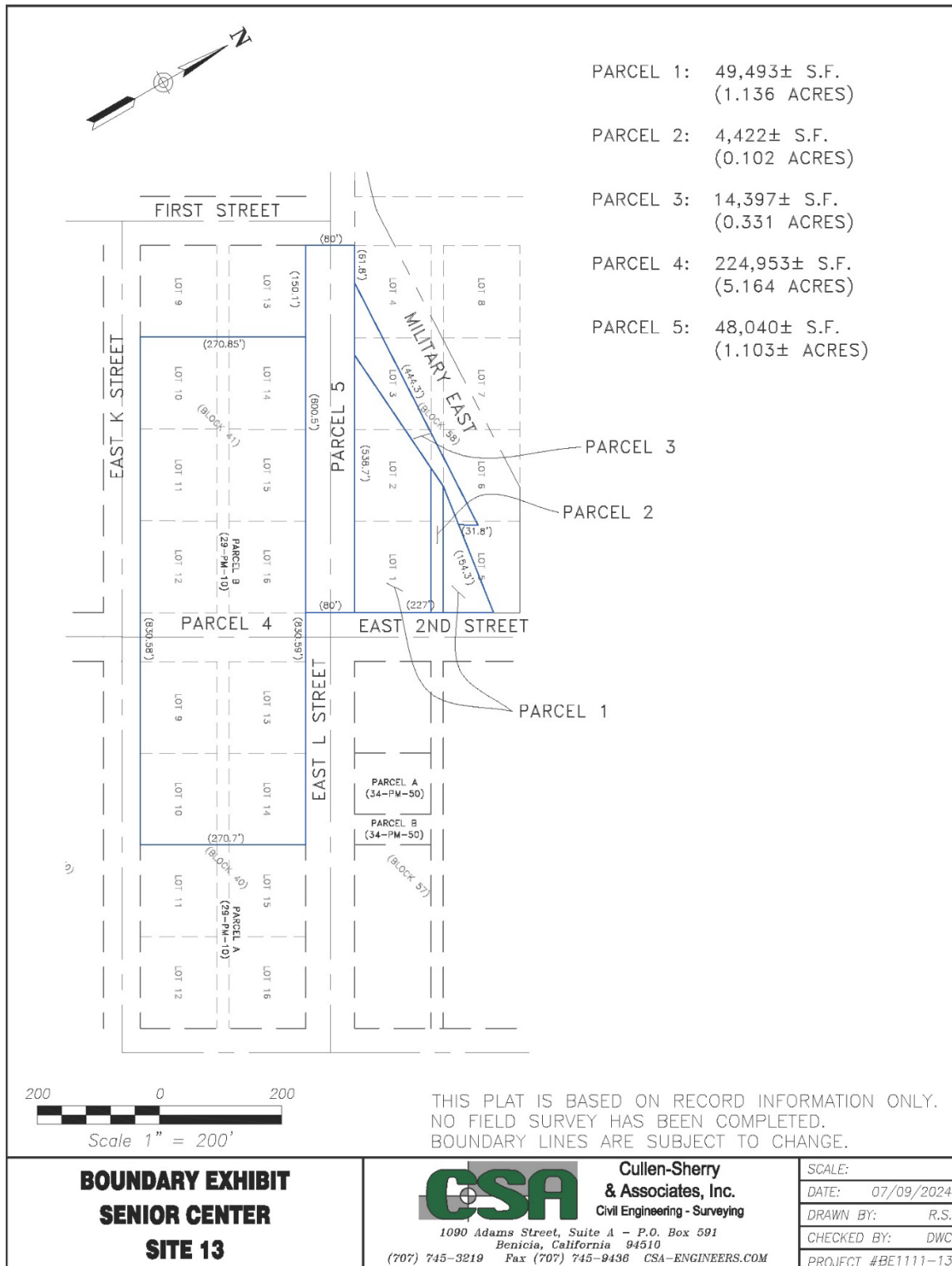
By:

Andrea Osgood, Chief of Real Estate Development
and Executive Vice President

Attachment No. 1-A

Site Map





Attachment No. 1-B

Senior Center Conveyance Parcel Site Map

[to be inserted after recordation of the Subdivision Map]

Attachment No. 2-A

Senior Center Site Legal Description

Parcel 1:

Lots 1, 2, 3, 5 and 6 in Block 58 of the City of Benicia, according to the Official Map thereof made by Benjamin W. Barlow, filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124. Excepting therefrom that portion of said Lots 2, 3, 5 and 6 which are located within the parcel of land conveyed to the State of California for State Highway purposes by Grant Deed from Dominican College of San Rafael, recorded August 23, 1943, in Book 289, Page 166 of Official Records, as Instrument No. 6981.

Parcel 2:

A portion of the alley in the Southerly half of Block 58, beginning at the most Easterly corner of Lot 1, Block 58, as shown on the Official Map of the City of Benicia, filed April 21, 1874 in Book 1 of Maps, Page 124, Solano County Records; thence North 59°59'41" West, 236.62 feet to a point on the Southerly line of the parcel of land granted to the State of California by the Dominican College of San Rafael and recorded August 23, 1943 in Book 289, Page 166, Official Records of Solano County; thence North 85°48'33" East, 33.90 feet; thence South 81°39'58" East, 2.57 feet; thence South 59°59'41" West, 20.00 feet to the point of beginning.

Parcel 3:

A portion of Military East Right of Way beginning at a point on the Northeasterly line of "L" Street that bears North 50°59'41" West, 520.55 feet from the most Southerly corner of Lot 1, Block 58, all as shown on the Official Map of the City of Benicia, filed April 21, 1874 in Book 1 of maps, page 124, Solano County Records, said point is also being on the Southerly line of the parcel of land granted to the State of California by the Dominican College of San Rafael and recorded August 23, 1943 in Book 289, Page 166, Official Records of Solano County; thence North 59° 59' 41" West, 118.17 feet; thence South 87°00'00" East, 444.30 feet; thence South 30°58'53" West, 31.88 feet; thence North 81°39'58" West, 70.07 feet; thence South 85°48'33" West 256.31 feet to the point of beginning.

Attachment No. 2-B

Scout Property Legal Description

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Attachment No. 2-C

Senior Center Conveyance Parcel Legal Description

[to be inserted after recordation of the Subdivision Map]

Attachment No. 2-D

Retained Site Legal Description

[to be inserted after recordation of the Subdivision Map]

Attachment No. 3

Memorandum of Agreement

RECORDING	REQUESTED	BY	)
AND WHEN RECORDED MAIL TO:			)
			)
City of Benicia			)
250 East L Street			)
Benicia, CA 95510			)
Attention: City Clerk			)
			)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT

THIS MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT (“**Memorandum of Agreement**”), dated for identification purposes as of _____, 20__, is entered into by and between the CITY OF BENICIA, a California municipal corporation (“**City**”), and EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”).

1. **Disposition and Development Agreement.** City and Developer are parties to a Disposition and Development Agreement dated for identification purposes as of _____, 20__ (“**DDA**”), for: (i) City’s disposition and sale to Developer of certain real property located in the City of Benicia, County of Solano, State of California, legally described in Exhibit A-1 and Exhibit A-2 attached hereto and incorporated herein by this reference (collectively the “**Site**”); (ii) the development by Developer of a senior citizen housing development as defined by Section 51.3 of the California Civil Code with not less than ninety (90) below market rate residential units, with a mix of predominantly one-bedroom units and a small percentage of studios, with ancillary parking and community amenities (“**Affordable Units**”), which shall be available for rental to households of extremely low, very low, and low income, on the Site (“**Project**”); and (iii) Developer to use, operate and maintain the Project, including the Affordable Units, in accordance with the terms of the DDA and the Affordable Housing Covenants as defined in the DDA. The DDA is available for public inspection and copying at the office of the City Clerk, City of Benicia, City Hall, 250 East L Street, Benicia, California 95510. All of the terms, conditions, provisions and covenants of the DDA are incorporated in this Memorandum of Agreement by reference as though written out at length herein, and the DDA and this Memorandum of Agreement shall be deemed to constitute a single instrument or document. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the DDA.

2. **Purpose of Memorandum of Agreement.** This Memorandum of Agreement is prepared for recordation purposes only, and in no way modifies the terms, conditions, provisions and covenants of the DDA. In the event of any inconsistency between the terms, conditions, provisions and covenants of this Memorandum of Agreement and the DDA, the terms, conditions, provisions and covenants of the DDA shall prevail.

The parties have executed this Memorandum of Agreement on the dates specified immediately adjacent to their respective signatures.

Dated: _____, 20__ CITY:

CITY OF BENICIA,
a California municipal corporation

By: _____
Mario Giuliani, City Manager
[notary acknowledgment required]

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

Dated: _____, 20__

DEVELOPER:

EDEN BENICIA SENIOR INVESTORS LP, a
California limited partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

By: EDEN HOUSING, INC.,
a California non-profit public benefit
corporation, its sole member/manager

By: _____
Andrea Osgood, Chief of Real Estate
Development and Executive Vice President
[notary acknowledgment required]

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the subdivision map)

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Attachment No. 4

Schedule of Performance

Action	Date
1. Open Escrow. City shall open Escrow with the Escrow Agent. (§ 202)	Within 15 calendar days from the Date of Agreement.
2. Title Report. City shall cause the Title Company to deliver the Title Report to Developer and City. (§ 203)	Within 30 calendar days following the date of Escrow is opened.
3. Survey. Developer shall cause a survey of the Site to be prepared by a licensed civil engineer, certified to Title Company, Developer and City, sufficient to enable Title Company to issue the Owner's Title Policy at Closing City. (§ 203)	Within 60 calendar days prior to Closing
4. Approval/Disapproval of Title Exceptions. Developer shall provide Notice to City of Developer's approval or disapproval of Title Exceptions. (§ 203)	Within 60 days following receipt of Title Report.
5. City Consultant Cost Deposit. Developer shall deposit the City Cost Deposit in an initial amount of \$25,000 with City. (§ 210)	Within 30 calendar days following the Date of Agreement.
6. Approval of Preliminary Cost Estimate – Senior Center. City shall review the Preliminary Cost Estimate for the Senior Center and provide Developer with notice of approval or disapproval. (§ 301.1(b))	Within 15 business days following submittal.
7. Pre-Application for Project Approvals. Developer shall submit a pre-application or applications to the City for the Project Approvals. (§302.1)	Within 60 calendar days of the Date of Agreement.

Action	Date
8. Development Application for Project Approvals. Developer shall submit an application or applications to the City for the Project Approvals including all information required by the City's application checklist. . (§302.1)	On or before June 30, 2026.
9. Project Approvals. Developer shall receive all Project Approvals	Prior to the Closing.
10. Subdivision Map. Developer shall prepare a plat map and legal description of the portion of the Senior Center Site to be conveyed by the City to the Developer removing those portions of the Senior Center Site that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, (the "Senior Center Conveyance Parcel") and the Retained Site. (§302.3)	On or before June 30, 2026.
11. Preliminary Financing Report. Developer shall submit the Preliminary Financing Report to City. (§501.1)	Within 30 days of obtaining Project Approvals.
12. Evidence of Financing. Developer shall provide City with evidence of submittal of applications for Project Financing as identified in approved Preliminary Financing Report. (§ 501.2)	Within 10 calendar days following submittal of application by Developer pursuant to NOFA issued by federal, state or local agencies.
13. Approval of Evidence of Financing. City shall review the Evidence of Financing for the Project and provide Developer with notice of approval or disapproval. (§ 501.3)	Within 15 business days following submittal by Developer.

Action	Date
14. General Contractor and Construction Contract. Developer shall notify City of the Developer's selection of the selected general contractor and the Construction Contract to be entered into for the work of the Project Improvements. (§ 305.1)	On or prior to 2 months before Closing.
15. Approval/Disapproval of General Contractor and Construction Contract. The City Manager shall approve or disapprove the proposed general contractor and the Construction Contract for the Project Improvements. (§ 305.1)	Within 15 business days following submittal by Developer.
16. Submittal of Marketing Plan. Developer shall submit the Marketing Plan to City for review and approval. (§ 402.3)	On or prior to 6 months before Completion.
17. Approval of Marketing Plan. City shall review the Marketing Plan and provide Developer with notice of approval or disapproval. (§ 402.3)	Within 45 calendar days following submittal.
18. Submittal of Supportive Services Plan. Developer shall submit the Supportive Services Plan to City for review and approval. (§ 402.4)	On or prior to 6 months before Completion.
19. Approval of Supportive Services Plan. City shall review the Supportive Services Plan and provide Developer with notice of approval or disapproval. (§ 402.4)	Within 45 calendar days following submittal.
20. Submittal of Site Management Plan. Developer shall submit a Site Management Plan to City for review and approval. (§ 402.5)	On or prior to 6 months before Completion.

Action	Date
21. Approval of Site Management Plan. City shall review the Site Management Plan and provide Developer with notice of approval or disapproval. (§ 402.5)	Within 45 calendar days following submittal.
22. Insurance. Developer shall furnish evidence of required insurance to City. (§ 306)	Prior to Closing.
23. Closing of Construction Loan(s). Developer's construction loan(s) for the Project shall have closed. (§ 501.4)	Prior to or simultaneous with Closing.
24. Closing. City and Developer shall close Escrow and Convey the Site to Developer. (§202.4)	Within 10 days following satisfaction of all of City's and Developer's Conditions Precedent to Closing, but in no event later than Outside Date.
25. Record Subdivision Map. Developer shall secure City approval and execution of the Subdivision Map for the Site (both as owner of fee title to Site and in its regulatory capacity) and deliver to Escrow for recording in Official Records. (§302.3)	Prior to or concurrent with Closing.
26. Record Grant Deed. City and Developer shall execute the Grant Deed for the Site and deliver to Escrow for recording in Official Records. (§205.1(b), §205.2(b))	Concurrent with Closing.
27. Record Memorandum of Agreement for Site. City and Developer shall execute the Memorandum of Agreement for the Site and provide to Escrow for recording in Official Records. (§205.1(b), §205.2(b), §704)	Concurrent with Closing.

Action	Date
28. Record Affordable Housing Covenant. City and Developer shall execute the Affordable Housing Covenant and provide to Escrow for recording against the Site in Official Records. (§205.1(b), §205.2(b), §405)	Concurrent with Closing.
29. Record Subordination Agreement – Affordable Units. Developer shall cause all lienholders to execute, acknowledge and provide a Subordination Agreement – Affordable Units to Escrow for recording against the Site in Official Records. (§205.1(b), §405.1)	Concurrent with Closing.
30. Reciprocal Easement Agreement. City and Developer shall execute the Reciprocal Easement Agreement and provide to Escrow for recording against the Site. (§301.1 (b))	Concurrent with Closing.
31. Deposit Purchase Price and Closing Costs. Developer shall have delivered the Purchase Price and Closing Costs into Escrow. (§ 205.1 (c) and (d))	Concurrent with Closing.
32. Schematic Plans. Developer shall submit schematic plans to the City for approval/disapproval. (§ 304.1)	Within 60 days of Project Approvals.
33. Approval of Schematic Plans. The City Manager shall approve or disapprove the Schematic Plans. (§ 304.1)	Within 15 business days following submittal by Developer.
34. Construction Drawings. Developer shall prepare and submit to City the Construction Drawings. (§ 304.2)	Concurrent with submittal of application for building permit for the Project Improvements.
35. Approval of Construction Drawings. The City Manager shall approve or disapprove the Construction Drawings. (§ 304.2)	Within 15 business days following submittal by Developer.

Action	Date
36. Commencement of Construction. Developer shall Commence Construction of the Project Improvements. (§ 303)	Within 30 calendar days following Closing.
37. Completion of Construction. Developer shall complete construction of the Project Improvements. (§ 303)	Within thirty (30) months following Commencement of Construction.
38. Certificate of Completion. City shall provide a Certificate of Completion to Developer. (§ 310)	Within 30 days following satisfactory completion of the Project Improvements, as evidenced by City's issuance of a certificate of occupancy, and Developer's request therefor.

Attachment No. 5

Affordable Housing Agreement & Declaration of Restrictive Covenants

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Benicia
250 East L. Street
Benicia, CA 94510
Attention: City Clerk

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

AFFORDABLE SENIOR HOUSING REGULATORY AGREEMENT

AND

DECLARATION OF RESTRICTIVE COVENANTS

by and between

THE CITY OF BENICIA

and

EDEN BENICIA SENIOR INVESTORS LP

This Affordable Senior Housing Regulatory Agreement and Declaration of Restrictive Covenants (this “**Agreement**”) is entered into effective as of _____, 20__ (the “**Effective Date**”) by and between the City of Benicia, a municipal corporation, (the “**City**”) and Eden Benicia Senior Investors LP, a California limited partnership (the “**Developer**”). The City and the Developer are referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. Developer is the owner of the real property located in the City of Benicia, California, more particularly described in Exhibit A attached hereto (the “**Property**”).

B. Developer acquired the Property from the City pursuant to that certain Disposition and Development Agreement (“**DDA**”) dated _____, 2026, as evidenced by that certain Memorandum of Disposition and Development Agreement, dated _____, 2026, and recorded in the official records of the Office of the County Clerk-Recorder of the County of Solano (“**Official Records**”), on _____, 2026, at Instrument No. _____.

C. Pursuant to the DDA, Developer is required to develop and construct a senior citizen housing development, as defined by Section 51.3 of the California Civil Code, on the Property which will include: (i) a total of _____ () rental units in three (3) buildings comprised of _____ () one-bedroom units, _____ () studio units all available at an Affordable Rent to Eligible Households, as defined herein (the “**Restricted Units**”), and two (2) 2-bedroom manager’s units (the “**Managers’ Units**”); (ii) a cold shell build out of approximately _____ square feet of space to be retained by the City; (iii) a pedestrian promenade open space of no less than _____ square feet; and (iv) a new podium and surface parking (collectively, the “**Project**”).

D. The DDA provides that the Restricted Units will be required to be available to Eligible Households at Affordable Rents in accordance with this Agreement for a period of fifty-five (55) years.

E. The purpose of this Agreement is to satisfy the requirements of the DDA and thereby regulate and restrict the occupancy and rents of the Restricted Units for the benefit of the Project. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Developer and Developer’s successors and assigns for the full Term of this Agreement.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1.1 Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

“**Actual household size**” means the actual number of persons in the applicable household.

“**Adjusted for family size appropriate for the unit**” shall have the meaning set forth in Section 50052.5 of the California Health and Safety Code, as amended or any successor statute thereto, subject to the application of federal rules and regulations, if applicable, to financing sources for all or a portion of the Project, including applicable federal and TCAC regulations.

“Affordable Housing Monitoring Fee” is defined in Section 3.5.

“Affordable Housing Occupancy Date” means the date of issuance by City of a certificate of occupancy for the final Restricted Unit constructed on the Property, to be memorialized by the Parties through execution and recordation of the Certificate of Completion in accordance with Section 310 of the DDA.

“Affordable Rent” shall mean rental rates no greater than ELI Rent for Extremely Low Income Households, VLI Rent for Very Low Income Households, and LI Rent for Low Income Households, adjusted for family size appropriate to the Restricted Unit, determined in accordance with California Health and Safety Code Section 50053, as amended, or any successor statute thereto; provided, however, in no event shall the maximum affordable rent be higher than 20 percent below the median market rate rents for the neighborhood in which the Site is located; and provided, further that for lower income households with gross incomes that exceed 60 percent of the Area Median Income adjusted for family size appropriate to the unit, rental rates may be established at a level not to exceed 30 percent of Gross Income of the household. Notwithstanding the foregoing, if applicable to financing sources for all or a portion of the Project, during the fifteen (15) year tax credit compliance period under Internal Revenue Code Section 42, or such longer term of the regulatory agreement to be executed by TCAC and Developer and recorded against the applicable portion of the Project, the City hereby permits Developer to use the occupancy standards and rent levels required by TCAC.

“Agreement” means this Affordable Senior Housing Regulatory Agreement And Declaration of Restrictive Covenant between City and Developer.

“Annual Report” is defined in Section 3.2.

“Area Median Income” or “AMF” means the median household income (adjusted for family size appropriate to the unit) of the Metropolitan Statistical Area in which Solano County is located, as established pursuant to California Health and Safety Code Sections 50093 and 50105, as amended or any successor statute thereto, or as applicable, the median income for Solano County, California, adjusted for family size appropriate to the unit, as determined by TCAC regulations.

“City” means the City of Benicia, a California municipal corporation.

“City Documents” means this Agreement, the DDA, the Project Approvals, and the Certificate of Completion (as defined in the DDA).

“City’s Authorized Representative” means the City Manager of the City of Benicia.

“Claims” is defined in Section 2.6.

“DDA” is defined in Recital B.

“Developer” means Eden Benicia Senior Investors LP, a California limited partnership.

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

“Eligible Household” means an Extremely Low-Income Household, Very Low-Income Household, or Low-Income Household qualified in accordance with the terms of this Agreement and Sections 50106, 50105 and 50079.5, respectively, of the California Health and Safety Code, as amended or any successor statute thereto, and which includes at least one member who is age 55 or older or other qualifying resident as defined in California Civil Code Section 51.3.

“ELI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times thirty percent (30%) of AMI, adjusted for family size appropriate to the unit.

“Event of Default” is defined in Section 9.1.

“Extremely Low-Income Household” is defined in Section 50106 of the California Health and Safety Code, as amended or any successor statute thereto.

“Gross Income” shall mean the combined, gross, pre-tax income of all adult occupants of the applicant household, as calculated under Section 6914 of Title 25 of the California Code of Regulations as such section may be revised from time to time.

“HCD” means the State of California, Department of Housing and Community Development.

“HUD” means the U.S. Department of Housing and Urban Development.

“Indemnitees” is defined in Section 2.6.

“LI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times eighty percent (80%) of AMI, adjusted for family size appropriate to the unit.

“Low-Income Household” is defined in Section 50079.5 of the California Health and Safety Code, as amended, or any successor statute thereto.

“Managers’ Units” is defined in Recital C.

“Marketing and Management Plan” is defined in Section 6.5.

“Official Records” as defined in Recital B means the Official Records of the Office of the County Clerk-Recorder of the County of Solano, California.

“Partnership Agreement” is defined in Section 8.2.

“Party” and **“Parties”** are defined in the introductory paragraph of this Agreement.

“Project” is defined in Recital C.

“Project Approvals” is defined in Section 302.1 of the DDA.

“Project Improvements” is defined in Section 301 of the DDA and means the improvements to be designed and constructed by Developer on the Property in accordance with the Project Approvals for the Project.

“Property” is defined in Recital A and more particularly described in the legal description attached hereto as Exhibit A.

“Property Manager” is defined in Section 6.7.

“Relocation Laws” is defined in Section 2.6.

“Rent” means the monthly payment for the use and occupancy of a Restricted Unit.

“Restricted Units” is defined in Recital C and means a residential dwelling unit that is reserved for occupancy at an Affordable Rent for Eligible Households of specified household income levels as set forth in Section 2.2 and Exhibit B.

“Schedule of Performance” means the Schedule of Performance attached as Attachment No. 4 to the DDA, setting out the dates and/or time periods by which certain obligations of City and Developer set forth in the DDA must be accomplished.

“Site Management Plan” is defined in Section 6.7.

“Supportive Services Plan” is defined in Section 6.6.

“Tenant Data” is defined in Section 3.4.3.

“Term” or ***“Term of this Agreement”*** is defined in Section 4.1.

“Third Party Lender” is defined in Section 8.6.

“Transfer” is defined in Section 8.1.

“Very Low-Income Household” is defined in Section 50105 of the California Health and Safety Code, as amended or any successor statute thereto.

“VLI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times fifty percent (50%) of AMI, adjusted for family size appropriate to the unit.

2. Use and Affordability Restrictions. Developer hereby covenants and agrees, for itself and its successors and assigns, that throughout the Term of this Agreement, the Property shall be used solely for residential occupancy by Eligible Households in compliance with the DDA and the requirements set forth in this Agreement. Developer represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement, and Developer covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of City. For the purpose of this Section, other regulatory and similar agreements

that impose more stringent affordability and occupancy restrictions on the Project than those set forth in this Agreement shall not be deemed to be inconsistent with this Agreement.

2.1 Senior Housing. Developer has elected to operate the Project as a senior citizen housing development and as such to require all dwelling units in the Project except for the managers' units to be occupied or held available for occupancy by households that include "elderly" or "senior" residents in accordance with applicable law. To the extent applicable, the Project will be operated at all times in accordance with (a) the Unruh Act, including without limitation California Civil Code Sections 51.2, 51.3, and 51.4; (b) the federal Fair Housing Act, 42 U.S.C. Section 3607(b) and 24 CFR 100.304; (c) the California Fair Employment and Housing Act, Government Code Section 12900 *et seq.*, and (d) all other applicable laws and regulations. Developer shall develop and implement appropriate age verification procedures to ensure compliance with this Section 2.1, and shall provide City with a copy of such verification procedures. To the greatest extent permitted by law, Developer will indemnify, defend, and hold the Indemnitees harmless from all Claims arising out of Developer's failure to comply with applicable legal requirements related to housing for seniors. Developer's indemnification obligations set forth in this Section (i) shall survive the expiration or earlier termination of this Agreement, and (ii) shall not extend to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees.

2.2 Affordability, Occupancy and Rent Requirements. Throughout the Term of this Agreement (as defined in Section 4.1 below): (i) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Extremely Low-Income Households at Rent not to exceed ELI Rent; (ii) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Very Low-Income Households at Rent not to exceed VLI Rent; and (iii) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Low Income Households at Rent not to exceed LI Rent.

The Restricted Units shall be allocated among unit size and affordability categories as set forth in Exhibit B. Further, as previously noted herein, two (2) of the residential units in the Project shall be Managers' Units that will not be subject to rent or occupancy restrictions. Notwithstanding the foregoing, no tenant qualifying for a Restricted Unit shall be denied continued occupancy of a Restricted Unit in the Project because, after admission, such tenant's household income increases to exceed the qualifying limit for such Restricted Unit. A household which at initial occupancy qualifies in a particular income category shall be treated as continuing to be of such income category so long as the household's Gross Income does not exceed one hundred forty percent (140%) of the applicable income limit. In the event the household Gross Income of a household that qualified at the applicable income limit at initial occupancy exceeds the applicable income limit for a Restricted Unit, that Restricted Unit will continue to be considered as satisfying the applicable income limit.

In the event that recertification of tenant incomes indicates that the number of Restricted Units actually occupied by Eligible Households falls below the number reserved for each income group as specified in Exhibit B, Developer shall rectify the condition by renting the next available dwelling unit(s) in the Project to Eligible Household(s) until the required income mix is achieved.

If upon income recertification, a tenant household's income exceeds eighty percent (80%) of AMI Adjusted for Actual Household Size, Developer may increase the Rent for such tenant to the lowest of the following: (a) one twelfth of thirty percent (30%) of the tenant household's Gross Income, (b) the maximum rent allowed under any affordability restrictions imposed by other Project lenders, and (c) if the Project has been allocated low-income housing tax credits, the maximum rent allowed by Section 42 of the Internal Revenue Code of 1986, as amended.

In the event of inconsistency between the provisions of this Section 2.2 and the rules applicable to the Project in connection with low-income housing tax credits, the rules applicable to low-income housing tax credits shall prevail.

2.3 Managers' Units. Two (2) dwelling units in the Project may be used as resident Managers' Units, shall not be considered as Restricted Units, and shall be exempt from the occupancy and rent restrictions set forth in this Agreement.

2.4 No Condominium Conversion. Developer shall not convert the Restricted Units in the Project to condominium or cooperative ownership or sell condominium or cooperative rights to the Restricted Units in the Project during the Term of this Agreement.

2.5 Non-Discrimination; Compliance with Fair Housing Laws.

2.5.1 Fair Housing; Section 8 Vouchers. Developer shall comply with state and federal fair housing laws in the marketing and rental of the units in the Project. Developer shall accept as tenants, on the same basis as all other prospective tenants, seniors who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing Section 8 program or any successor thereto.

2.5.2 Non-Discrimination. Developer shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, gender identity, disability, marital status, ancestry, age (other than as permitted pursuant to this Agreement and applicable law pertaining to housing for seniors), or national origin of any person. Developer covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition 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 rental, sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property or part thereof, nor shall Developer or any person claiming under or through Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or part thereof. Developer shall include such provision in all deeds, leases, contracts, and other instruments executed by Developer, and shall enforce the same diligently and in good faith.

All deeds, leases, and contracts pertaining to management of the Project, made or entered into by Developer, its successors or assigns, as to any portion of the Property or the Project Improvements shall contain the following language:

(a) (1) In Deeds, the following language shall appear:

Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of a person or of a 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 property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.”

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

(b) (1) In Leases, the following language shall appear:

The lessee herein covenants by and for the lessee and lessee’s heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased.

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

of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(c) (1) In Contracts pertaining to management of the Project, the following language, or substantially similar language prohibiting discrimination and segregation shall appear:

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 property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees, or vendees of the land.

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

2.6 Relocation. Persons residing on the Property prior to commencement of construction of the Project, shall not be displaced before suitable replacement housing is available. Developer shall ensure that all occupants of the Property receive all notices, benefits, and assistance to which they are entitled in accordance with California Relocation Assistance Law (Government Code Section 7260 *et seq.*), all state and local regulations implementing such law, and all other applicable local, state, and federal laws, regulations and policies, including but not limited to the Uniform Relocation Act (42 U.S.C. § 4601 *et seq.*) and implementing regulations (collectively “**Relocation Laws**”) relating to the displacement and relocation of eligible persons as defined in such Relocation Laws. All costs incurred in connection with the temporary and/or permanent displacement and/or relocation of occupants of the Property, including without limitation payments to a relocation consultant, moving expenses, and payments for temporary and permanent relocation benefits pursuant to Relocation Laws shall be paid by Developer, and City shall have no responsibility for payment therefor.

To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the City and the City, and their respective elected and appointed officers, officials, employees, agents, consultants, contractors, and representatives (collectively, the “**Indemnitees**”) harmless from and against all liability, loss, cost, expense (including without limitation attorneys’ fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing

collectively “**Claims**”) arising from the breach of Developer’s obligations set forth in this Section whether or not any insurance policies shall have been determined to be applicable to any such Claims. Developer’s indemnification obligations set forth in this Section (i) shall survive the expiration or earlier termination of this Agreement, and (ii) shall not extend to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees.

3. Reporting Requirements; Access to Information; Inspections; Annual Monitoring Fee.

3.1 Tenant Certification. Developer or Developer’s authorized agent shall obtain from each prospective tenant prior to initial occupancy of each Restricted Unit, and on every anniversary thereafter, a written certificate containing all of the following in such format and with such supporting documentation as City may reasonably require:

- (i) The identity of each household member;
- (ii) The total household Gross Income; and
- (iii) The age of each household member or other basis upon which each household member qualifies for occupancy under California Civil Code Section 51.3 *et seq.*

Developer shall retain such certificates for not less than five (5) years, and upon City’s request, shall provide copies of such certificates to City and make the originals available for City inspection.

3.2 Annual Report; Inspections. By not later than April 1 of each year during the Term of this Agreement, commencing in the year following completion of construction of the Project, Developer shall submit a report describing operations of the Project during the preceding calendar year (“**Annual Report**”) to the City in form satisfactory to City, together with a certification that the Project is in compliance with the affordability restrictions and occupancy requirements of this Agreement. The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Project: (i) unit number; (ii) number of bedrooms; (iii) current rent, utility, and other charges; (iv) dates of any vacancies during the previous year; (v) number of people residing in the unit; (vi) total household Gross Income of residents; (vii) documentation of source of household income; (viii) lease commencement and termination dates; (ix) initial move-in date; and (x) the information required by Section 3.1.

Developer shall include with the Annual Report documentation verifying tenant eligibility, and such additional information as City may reasonably request from time to time in order to demonstrate compliance with this Agreement. The Annual Report shall conform to the format requested by City; provided however, during such time that the Project is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of state or federal low-income housing tax credits or tax-exempt bond financing, Developer may satisfy the requirements of this Section that pertain to tenant income certification and rents by providing City with a copy of compliance reports required in connection with such financing.

In addition to the information described above, the Annual Report shall include the following:

- (i) A Project income and expense statement for the reporting period;
- (ii) Proposed annual budget for the next fiscal year which sets forth Developer's estimate of operating income, operating expenses and debt service for the year, amounts payable to reserves and proposed rent adjustments;
- (iii) Information on the status of the waiting list for units, including the number of households on the list;
- (iv) A report on reserve accounts which Developer is required to maintain for the Project, including an operating reserve and replacement reserve account, if applicable, summarizing draws of funds from such reserve account(s) during the prior calendar year and remaining balances;
- (v) A report summarizing any significant repairs or maintenance undertaken for the Project during the prior calendar year and describing any remaining physical defects to be corrected and the budget for such work;
- (vi) A financial audit of the books and records of the Project prepared in accordance with generally accepted auditing standards by an independent certified public accountant.; provided however, if in the ordinary course of business regarding the audit of Developer's books and records concerning the Project, the audit is not reasonably available at the time the Annual Report is submitted, Developer shall provide a copy of such audit to the City promptly when the same has been received by Developer;
- (vii) City may, from time to time, request additional or different information, and Developer shall promptly supply such information in the reports required hereunder.

3.3. Maintenance of Records.

3.3.1 Developer shall maintain all records regarding the construction of the Project for five (5) years after final payment and all other pending matters are closed. Developer shall also maintain tenant leases, income certifications, and other matters related to the leasing of the Project for a period of five (5) years after the final date of occupancy by the tenant.

3.3.2 Records must be kept accurate and up-to-date. City shall notify Developer of any records it deems insufficient. Developer shall have fifteen (15) calendar days from such notice to correct any specified deficiency in the records; or, if more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Developer shall begin to correct the deficiency within fifteen (15) days and diligently pursue the correction of the deficiency as soon as reasonably possible.

3.4 Access to Records; Inspections.

3.4.1 With at least five (5) business days' written notice, during normal business hours, Developer shall provide City and its authorized agents and representatives access to the books, documents, papers and records of the Project for the purpose of making audits, examinations, excerpts and transcriptions.

3.4.2 With at least two (2) business days' written notice, during normal business hours and as often as may be deemed necessary, City and its authorized agents and representatives shall be permitted access to and the right to examine the Project and the Property and to interview tenants and employees of the Project, for the purpose of verifying compliance with applicable regulations and compliance with the conditions of this Agreement and the other City Documents.

3.4.3 City shall comply with all applicable provisions of law pertaining to the protection of personal financial and/or identifying information of tenants provided to, or made available to City for inspection pursuant to this Agreement, including without limitation, the provisions of California Civil Code Sections 1798.80 through 1798.84, to the extent applicable to the City. All tenant files, leases, certifications, income verification documentation, and any other documents that may contain personal financial or identifying information of any tenant (collectively referred to as "**Tenant Data**") to be provided by the Developer to the City or any third party on the City's behalf, shall be made available for review by City or its representatives either on-site at the Property or via an internet-based document sharing platform selected by Developer. The City and its representatives agree to comply with all applicable laws with respect to the handling, maintenance and protection of Tenant Data, including, but not limited to, the provisions of Sections 1798.80 through and including 1798.84 of the California Civil Code, as amended.

3.5 Affordable Housing Monitoring Fee. Developer shall be obligated to pay to City an annual fee for the City's costs of monitoring Developer's compliance with the Agreement in the amount designated in the City's Master Fee Schedule, as may be amended from time to time, per unit for each Restricted Unit in the Project (the "**Affordable Housing Monitoring Fee**"). The Affordable Housing Monitoring Fee shall be due to City by not later than April 1 of each year during the Term of this Agreement, commencing in the year following recording of the Certificate of Completion in the Official Records in accordance with Section 310 of the DDA.

In the event that in any year there is insufficient Project cash flow available to pay the Affordable Housing Monitoring Fee, the City will permit the fee to be deferred. Any deferred amounts shall accrue and shall be payable from future Project cash flow.

Notwithstanding anything to the contrary contained in this Section 3.5, Developer shall not be required to pay any Affordable Housing Monitoring Fee for any given year provided that Developer complies with the Annual Report requirements set forth in Section 3.2 herein.

4. Term of Agreement.

4.1 Term of Restrictions. This Agreement shall remain in effect until the fifty-fifth (55th) anniversary of the Affordable Housing Occupancy Date (the “**Term**”).

4.2 Effectiveness Succeeds Conveyance of Property. This Agreement shall remain effective and fully binding for the full Term hereof regardless of any sale, assignment, transfer, or conveyance of the Project or the Property, or any part thereof or interest therein.

4.3 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the Term.

5. Binding Upon Successors; Covenants to Run with the Land. Developer hereby subjects its interest in the Property and the Project to the covenants and restrictions set forth in this Agreement. The City and Developer hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Developer and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Developer, including without limitation any purchaser, transferee or lessee of the Property or the Project (other than the tenants of the individual dwelling units within the Project) shall be subject to all of the duties and obligations imposed hereby for the full Term of this Agreement.

Commencing upon the Effective Date of this Agreement, each and every contract, deed, ground lease, or other instrument affecting or conveying the Property or the Project or any part thereof, shall conclusively be deemed to have been executed, delivered, and accepted subject to the covenants, restrictions, duties, and obligations set forth herein, regardless of whether such covenants, restrictions, duties, and obligations are set forth in such contract, deed, ground lease, or other instrument. Developer agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Property and the Project in favor of City.

6. Property Management; Repair and Maintenance; Marketing; Reserves; Supportive Services.

6.1 Management Responsibilities. Developer shall be responsible for all management functions with respect to the Property and the Project, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. City shall have no responsibility for management or maintenance of the Property or the Project.

6.2 Management Entity. City shall have the right to review and approve the qualifications of the property management entity proposed by Developer for the Project, and shall have the right to review and approve any property management agreement executed between

Developer and such entities, which approvals shall not be unreasonably withheld. The contracting of management services to a management entity shall not relieve Developer of its primary responsibility for proper performance of management duties. City hereby approves Eden Housing Management, Inc. as the initial property management entity for the Project. Any subsequent management entity shall be subject to City review and approval, which shall not be unreasonably withheld or delayed.

6.3 Repair, Maintenance and Security. Throughout the Term of this Agreement, Developer shall at its own expense, maintain the Property and the Project in good physical condition, in good repair, and in decent, safe, sanitary, habitable, and tenantable living condition in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations, reasonable wear and tear excepted. Without limiting the foregoing, Developer agrees to use reasonable efforts to maintain the Project and the Property (including without limitation, the apartment units therein, common areas, meeting rooms, landscaping, driveways, parking areas, and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Project. Developer shall take reasonable action to prevent and/or rectify any physical deterioration of the Property and the Project and shall make all repairs, renewals, and replacements reasonably necessary to keep the Property and the Project Improvements located thereon in good condition and repair. Developer shall provide adequate security measures for the Project, including without limitation, the installation of adequate lighting and deadbolt locks.

6.3.1 Additional Requirements. All construction/rehabilitation work and professional services for the Project shall be performed by persons or entities licensed or otherwise authorized to perform the applicable work or service in the State of California and shall have a current City of Benicia business license if required under local law. To the extent allowed by state and federal laws, Developer shall use reasonable efforts to limit the installation of satellite dish, antenna, and other such equipment to screened locations on the Property as approved by the City. Developer shall diligently work to resolve complaints related to noise, parking, litter or other neighborhood concerns.

6.4 City's Right to Perform Maintenance. In the event that Developer breaches any of the covenants contained in Section 6.3, and such default continues for a period of ten (10) days after written notice from City to Developer which notice identifies in reasonable detail the item or matters which City has determined to be in default (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City to Developer identifying items in default (with respect to landscaping, building improvements, and general maintenance), or if such default is of a nature that it cannot be cured within such ten (10) or thirty (30) days, as applicable, Owner shall have such additional time as is reasonably necessary to cure such default so long as Owner commences cure within such initial ten (10) or thirty (30) day period, as applicable, and diligently pursues such cure to completion, then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the Project Improvements and the landscaped areas on the Property. All costs expended by City in connection with the foregoing, shall constitute an indebtedness of Developer, and shall be paid by Developer to City upon written demand by City accompanied by a description of the work performed and costs incurred by City.

All such sums remaining unpaid thirty (30) days following delivery of City's invoice therefor shall bear interest at the lesser of ten percent (10%) per annum or the highest rate permitted by applicable law. If authorized by California law, City shall have a lien against the Property for the amount of such unpaid sums and shall have the right to record a Notice of Claim of Lien against the Property.

6.5 Marketing and Management Plan; Rental Agreements. Not later than the time provided for in the Schedule of Performance, Developer shall submit for City review and approval, which approval will not be unreasonably withheld, conditioned or delayed, a plan for marketing the Restricted Units ("**Marketing and Management Plan**"). The Marketing and Management Plan shall address in detail how Developer plans to market the Restricted Units to prospective Eligible Households in accordance with fair housing laws and this Agreement, Developer's tenant selection criteria, and how Developer plans to certify the eligibility of Eligible Households. The Marketing and Management Plan shall also describe the management team and shall address how the Developer and the management entity plan to manage and maintain the Property and the Project in accordance with the Site Management Plan required pursuant to Section 6.7. In addition, the Marketing and Management Plan shall include information regarding the qualifications of the proposed social services provider, and a description of the services to be provided to residents in accordance with the Supportive Services Plan required pursuant to Section 6.6.

The Marketing and Management Plan shall include a copy of (i) the Site Management Plan and proposed agreement between Developer and the management entity, (ii) the Supportive Services Plan and proposed agreement between Developer and the social services provider, and (iii) the form of rental agreement that Developer proposes to enter into with tenants of Restricted Units. Developer shall abide by the terms of the approved Marketing and Management Plan and attendant Site Management Plan and Supportive Services Plan in marketing, operating, managing, and maintaining the Property and the Project, and throughout the Term of this Agreement, shall submit any proposed modifications to any of said plans to City for its review and approval.

In addition to the foregoing, the Marketing and Management Plan shall address the following:

- (a) The actions to be taken by Developer to affirmatively market units in compliance with fair housing laws and in compliance with City's policies and procedures, including the policies described in Section 2.6 above;
- (b) Criteria for determining tenant eligibility, including certification of household income and size, age of household members or other qualifying criteria, and establishing reasonable occupancy standards (which occupancy standards shall be consistent with applicable local, state and federal fair housing laws and state housing and building codes), and procedures for screening prospective tenants, including obtaining credit reports, unlawful detainer reports, landlord references, and criminal background investigations, if permitted by applicable California law;
- (c) A requirement that eligible applicants be selected for tenancy in the Project based on order of application, lottery or other reasonable method approved by City;

- (d) A requirement that eligible applicants be notified of eligibility and be provided an estimate regarding when a unit may be available;
- (e) A requirement that ineligible applicants be notified of the reason for their ineligibility;
- (f) Specific procedures through which applicants deemed to be ineligible may appeal this determination;
- (g) Maintenance of a waiting list of eligible applicants;
- (h) Specific procedures for obtaining documentation regarding prospective tenants' incomes, as necessary, to certify that such income does not exceed allowable income limits;
- (i) Specific procedures for certification and recertification of household incomes and procedures for handling over-income tenants;
- (j) A requirement that a written rental agreement (in form approved by City) be executed with each Eligible Household selected to occupy a Restricted Unit;
- (k) A detailed listing of reasonable rules of conduct and occupancy which shall be in writing, shall be consistent with federal and state law, and shall be provided to each tenant upon occupancy;
- (l) A requirement that there be no storage on balconies and patios and that tenants must keep all balconies, patios, and other exterior areas neat, clean, and clutter free, including no clotheslines or laundry;
- (m) A parking management plan which details, among other things, how parking spaces will be assigned, how guest parking will be handled and how parking will be managed to encourage tenants to use their assigned parking spaces;
- (n) Procedures for maintenance and management of the Project;
- (o) Procedures for dealing with tenant or neighborhood issues or concerns;
- (p) Procedures for maintaining required Project reserve accounts, budgeting for maintenance and repair needs as well as long-term rehabilitation needs, and handling net cash flow; and
- (q) Such other requirements and criteria/procedures as City may reasonably determine appropriate.

6.6 Supportive Services Plan. Developer shall be responsible for ensuring that adequate supportive services are provided to residents of the Restricted Units, as more particularly set forth herein. Within the time established in the Schedule of Performance, Developer shall

submit to City a residential supportive services plan, in a form acceptable to City (“**Supportive Services Plan**”), the identity and qualifications of the proposed supportive services provider, and the proposed supportive services agreement for City’s review and approval.. The City Manager shall approve or disapprove the proposed Supportive Services Plan, proposed supportive services provider, and the proposed supportive services agreement within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Supportive Services Plan, proposed supportive services provider, or the proposed supportive services agreement, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Supportive Services Plan, proposed supportive services provider, and proposed supportive services agreement in the same manner and within the same time established in the Schedule of Performance. City hereby approves Eden Housing Resident Services, Inc. as the initial supportive service provider entity for the Project.

The Supportive Services Plan shall address the following, to the extent applicable:

- (a) A description of the target population and anticipated needs of tenants;
- (b) A description of how needs will be identified on an initial and ongoing basis including needs assessment, case management and monitoring;
- (c) Identification of service provider including point of contact, staffing levels, location of coordination services and hours of operation, service request procedures and confidentiality measures;
- (d) A description of supportive services offered to tenants (e.g., case management, benefits enrollment and assistance, legal aid, nutrition/meals, health and wellness support, activities and socialization, independent living skills), if any. Include where and how the service will be delivered, the frequency of the service delivery and the service provider;
- (e) Identification of key funding and community partners such as community organizations, healthcare providers, transportation agencies, etc.;
- (f) Accessibility and inclusivity of services including reasonable accommodations, language access and translation;
- (g) Procedures for emergency and crisis support, including coordination with emergency service providers, wellness checks, emergency and evacuation planning;
- (h) Service provider accountability, including resident feedback mechanisms and procedures for tracking, evaluating and measuring outcomes; and
- (i) Any required compliance statements required by funding sources.

6.7 Site Management Plan. Developer shall be responsible for ensuring that a person with the requisite skill and experience managing multi-family residential developments (“**Property Manager**”) lives on the Property in the Manager’s Units. Further, Developer shall be responsible for addressing in detail their plan to provide for the maintenance, repair (both routine and extraordinary), and rehabilitation of the Restricted Units, replacement of capital items in the Restricted Units, and implementation of the requirements of the Project Approvals (“**Site Management Plan**”). Within the time established in the Schedule of Performance, Developer shall submit to City a Site Management Plan, the identity and qualifications of the proposed site management provider, the proposed site management agreement, for City’s review and approval, and any subsequent amendments thereto during the Term of this Agreement. The City Manager shall approve or disapprove the proposed Site Management Plan, proposed site management provider, proposed site management agreement, and any amendments thereto, within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Site Management Plan, proposed site management provider, proposed site management agreement, or any amendments thereto, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any amendments to the Site Management Plan, proposed site management provider, and proposed site management agreement in the same manner established in the Schedule of Performance.

The Site Management Plan shall address the following:

- (a) Overview of the facility including property type, unit mix, and target populations;
- (b) Property management structure including: ownership entity, property management company and on-site staff, off-site management functions (if applicable), and hours and emergency contact protocols for the property manager and maintenance supervisor;
- (c) Staffing plan that identifies total full-time and part-time positions, on-site hours of operation, qualifications and training regulatory obligations including Fair Housing Act and “mandated reporter” duties;
- (d) Financial management controls including rent collection policies (due date, late payment, rent increases and notices, payment methods, and eviction prevention);
- (e) Facility maintenance including preventative maintenance inspection schedule, work order procedures and timelines, unit turnover procedures, and capital needs planning;
- (f) Safety and security systems including controlled access systems, lighting, emergency call systems, incident reporting, and coordination with first responders (police/fire/EMS); and

(g) Emergency preparedness including fire safety/evacuation procedures, extreme weather response, and power outages. Staff roles, communication methods and special assistance needs for residents with disabilities should be described.

6.8 Approval of Amendments. If City has not responded to any submission of the Management and Marketing Plan, the proposed management entity, the proposed management agreement, the form of lease agreement, the Supportive Services Plan, the proposed supportive services provider, the proposed supportive services agreement, the Site Management Plan, the proposed site management provider, the proposed site management agreement, or any proposed amendment or change to any of the foregoing within twenty (20) business days following City's receipt of such plan, proposal, agreement, or amendment, the plan, proposal, agreement, or amendment shall be deemed approved by City.

6.9 Fees, Taxes, and Other Levies. Developer shall be responsible for payment of all fees, assessments, taxes, charges, liens, and levies applicable to the Property or the Project, including without limitation possessory interest taxes, if applicable, imposed by any public entity, and shall pay such charges prior to delinquency. However, Developer shall not be required to pay any such charge so long as (a) Developer is contesting such charge in good faith and by appropriate proceedings; (b) Developer maintains reserves adequate to pay any contested liabilities; and (c) on final determination of the proceeding or contest, Developer immediately pays or discharges any decision or judgment rendered against it, together with all costs, charges, and interest. The foregoing is not intended to impair Developer's ability to apply for any applicable exemption from property taxes or other assessments and fees. Nothing in this Section is intended to impair Developer's right to seek a "welfare exemption" from the payment of ad valorem real property taxes assessed against the Property under California Revenue and Taxation Code Section 214(g).

6.10 Insurance Coverage. Throughout the Term of this Agreement, Developer shall comply with the insurance requirements set forth in Exhibit C, and shall, at Developer's expense, maintain in full force and effect insurance coverage as specified in Exhibit C.

6.11 Property Damage or Destruction. If any part of the Project is damaged or destroyed, Developer shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced as soon as reasonably practicable after the damage or loss occurs and shall be completed within one year thereafter or as soon as reasonably practicable, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible. .

7. Recordation; No Subordination. This Agreement shall be recorded in the Official Records and shall not be subordinated to any deeds of trust provided for the benefit of lenders identified in the Evidence of Financing submitted to, and approved by, City for the Project, pursuant to the DDA.

8. Transfer and Encumbrance.

8.1 Restrictions on Transfer and Encumbrance. During the Term of this Agreement, Developer shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively,

“**Transfer**”) of the whole or any part of the Property, the Restricted Units, the Project, or the Project Improvements located on the Property, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the Term of this Agreement, except as expressly permitted by this Agreement, Developer shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a “significant change of ownership” shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the ownership and /or control of Developer, taking all previous transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner and/or special limited partner, nor the transfer by the investor limited partner and/or special limited partner to subsequent limited partners or special limited partner, as applicable, nor the transfer of the Project, Property and/or Improvements to a general partner, or an affiliate of a general partner of the Developer, pursuant to an option or right of first refusal granted such parties pursuant to Developer’s agreement of limited partnership (the “**Partnership Agreement**”) shall be restricted by this provision.

8.2 Transfers. Subject to Section 8.3 below, the prohibitions set forth in this Article 8 shall not be deemed to prevent: (i) the granting of temporary or permanent easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to the City Documents; (iii) the lease of individual residences to tenants for occupancy as their principal residence in accordance with this Agreement; (iv) assignments creating security interests (including without limitation, collateral assignments of partnership equity interests) for the purpose of financing the acquisition, construction, rehabilitation, or permanent financing of the Project or the Property, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; (v) the admission of limited partners and any transfer of limited partnership interests in accordance with the Partnership Agreement; (vi) the removal of the general partner of the Developer by the investor limited partner for cause in accordance with the terms of the Partnership Agreement, provided that the replacement general partner is an entity reasonably satisfactory to City or is an affiliate of the investor limited partner that will serve as general partner for an interim period of no more than one hundred eighty (180) days during which time a permanent replacement general partner reasonably satisfactory to City shall be identified and admitted; or (vii) the transfer of the general partner’s interest to a nonprofit entity that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended (or to an entity wholly-owned thereby), provided such replacement general partner is reasonably satisfactory to City; or (viii) the transfer of the Project, Property and/or Improvements or the limited partner’s interest in the Developer to a general partner, or an affiliate of a general partner of the Owner, pursuant to an option or right of first refusal granted such parties pursuant to the Partnership Agreement.

8.3 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Property, the Project Improvements or part thereof if all of the following requirements are met (provided however, the requirements of this Section 8.3 shall not apply to Transfers described in clauses (i), (ii), (iii), (iv), and (v) of Section 8.2, and solely with respect to (a) the removal of the general partner by the investor limited partner for a default under the Partnership Agreement, and (b) the replacement of the general partner with an affiliate of the investor limited partner for an interim period of not more than one hundred eighty (180) days, clause (vi) of Section 8.2 (provided that the provisions of this

Section 8.3 shall apply to the selection of a replacement general partner in the event of a removal of the general partner in accordance with clause (vi) of Section 8.2):

(i) The proposed transferee demonstrates to the City's satisfaction that it has the qualifications, experience, and financial resources necessary and adequate as may be reasonably determined by the City to competently complete construction and manage the Project and to otherwise fulfill the obligations imposed on the owner of the Property under this Agreement.

(ii) The transferor and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of all or any part of or interest in the Property, the Project Improvements, or this Agreement together with such documentation of the proposed transferee's qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Developer under this Agreement and the other City Documents arising after the effective date of the Transfer and all obligations of Developer arising prior to the effective date of the Transfer (unless Developer expressly remains responsible for such obligations) and shall agree to be subject to and assume all of the obligations pursuant to the Project Approvals and all other conditions, and restrictions set forth in this Agreement.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

Consent to any proposed Transfer may be given by the City's Authorized Representative unless the City's Authorized Representative, in his or her discretion, refers the matter of approval to the City Council. If the City has not rejected a proposed Transfer or requested additional information regarding a proposed Transfer in writing within forty-five (45) days following City's receipt of written request for such Transfer, the proposed Transfer shall be deemed approved.

8.4 Effect of Transfer without City Consent. In the absence of specific written agreement by the City, no Transfer of the Property or the Project shall be deemed to relieve the Developer or any other party from any obligation under this Agreement. It shall be an Event of Default hereunder entitling City to pursue remedies if without the prior written approval of the City, Developer assigns or Transfers this Agreement, the Project Improvements, or the Property in violation of Section 8. This Section 8.4 shall not apply to Transfers described in clauses (i), (ii), (iii), (iv), and (v) of Section 8.2, and solely with respect to (a) the removal of the general partner by the investor limited partner for a default under the Partnership Agreement, and (b) the replacement of the general partner with an affiliate of the investor limited partner for an interim period of not more than one hundred eighty (180) days, pursuant to clause (vi) of Section 8.2.

8.5 Recovery of City Costs. Within ten (10) days following City's delivery of an invoice detailing such costs, the party proposing a Transfer shall reimburse City for all City costs, including but not limited to reasonable attorneys' fees, reasonably incurred in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee

8.6 Encumbrances. Developer agrees to use best efforts to ensure that all deeds of trust or other security instruments recorded against the Property, the Project, or part thereof, for the benefit of a lender identified in the Evidence of Financing approved by City pursuant to the DDA (“**Third-Party Lender**”) shall contain each of the following provisions: (i) Third-Party Lender shall use reasonable efforts to provide to City a copy of any notice of default issued to Developer concurrently with provision of such notice to Developer; (ii) City shall have the reasonable right, but not the obligation, to cure any default by Developer within the same period of time provided to Developer for such cure extended by an additional ninety (90) days, and that such Third-Party Lender shall accept a cure made by the City with the same force and effect as if the cure had been made by Developer; (iii) provided that City has cured any default under Third-Party Lender’s deed of trust and other loan documents, City shall have the right to take title to the Property and the Project without acceleration of Third-Party Lender’s debt; and (iv) City shall have the right to transfer the Property and the Project without acceleration of Third-Party Lender’s debt to a nonprofit corporation or other entity which shall own and operate the Project as an affordable rental housing development, subject to the prior written consent of the Third-Party Lender. Developer agrees to provide to City a copy of any notice of default Developer receives from any Third-Party Lender within three (3) business days following Developer’s receipt thereof.

8.7 Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Property, and the purchaser at any trustee’s sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Unless this Agreement is subordinated in accordance with Section 7 above, such purchaser shall be bound by and subject to this Agreement from and after such trustee’s sale or foreclosure sale. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of any mortgages or deeds of trust encumbering the Project or the Property that such violation has occurred.

9. Default and Remedies.

9.1 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder (“**Event of Default**”):

- (i) The occurrence of a Transfer in violation of Section 8 hereof;
- (ii) Developer’s failure to maintain insurance on the Property and the Project as required hereunder, and the failure of Developer to cure such default within five (5) days;
- (iii) Subject to Developer’s right to contest the following charges, Developer’s failure to pay prior to delinquency taxes or assessments due on the Property or the Project or failure to pay when due any other charge that may result in a lien on the Property or the Project, and Developer’s failure to cure such default within twenty (20) days of delinquency, but in all events prior to the date upon which the holder of any such lien has the right to foreclose thereon;
- (iv) A default by the Developer arises under the DDA that remains uncured beyond the expiration of any applicable cure period; or

(v) Developer's default in the performance of any term, provision or covenant under this Agreement (other than an obligation enumerated in this Section 9.1), and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days following written notice from City in the event of a monetary default or thirty (30) days following written notice from City in the event of a non-monetary default, or if the nature of any such non-monetary default is such that it cannot be cured within such thirty (30) day period, Developer's failure to commence to cure the default within thirty (30) days and thereafter prosecute the cure of such default to completion with due diligence and in good faith but in no event longer than ninety (90) days from receipt of the notice of default.

The limited partners of Developer shall have the right but not the obligation to cure any default of Developer hereunder upon the same terms and conditions afforded to Developer, and City will recognize a cure performed by a limited partner with the same force and effect as if the cure were performed by Developer; provided however, if the default is of such nature that the limited partners reasonably determine that it is necessary to replace the general partner of Developer in order to cure such default, then the applicable cure period shall be extended by an additional sixty (60) days following the removal and replacement of such general partner, provided that the limited partners have promptly commenced and diligently proceeded with all requisite actions to effect such removal and replacement. City shall provide a copy of any notice of default hereunder to the limited partners at the address set forth in Section 11.3 hereof, or to such other address provided to the City in writing, concurrently with the provision of such notice to Developer.

9.2 Remedies. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City may proceed with any of the following remedies:

- (i) Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;
- (ii) For violations of obligations with respect to rents for Restricted Units, impose a charge in an amount equal to the actual amount collected from a tenant in excess of the Affordable Rent; or
- (iii) Pursue any other remedy allowed under the City Documents or at law or in equity.

Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

10. Indemnity. To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against all Claims arising directly or indirectly, in whole or in part, as a result of or in connection with Developer's construction/rehabilitation, management, or operation of the Property and the Project, or Developer's employees', agents', contractors', or subcontractors' failure to comply with applicable law, including without limitation state and federal fair housing laws, or failure to perform any obligation as and when required by this Agreement. Developer's indemnification

obligations under this Section 10 shall not extend to Claims to the extent resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 10 shall survive the expiration or earlier termination of this Agreement.

10.1 Terms Applicable to Indemnity Provisions. The terms set forth in this Section 10.1 shall apply to all provisions of this Agreement that pertain to Developer's obligations to indemnify City and the other Indemnitees, including without limitation, Section 10. In connection with each such provision, all of the following shall apply:

(a) City does not and shall not waive any rights that it may have by reason of any indemnity and hold harmless provision set forth in this Agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

(b) Developer's obligation to indemnify the Indemnitees shall not be limited or impaired by any of the following: (i) any amendment or modification of any City Document (unless and to the extent an indemnity provision was modified by such amendment or modification); (ii) any extensions of time for performance required by any City Document; (iii) any provision in any of the City Documents limiting the personal liability of Developer, or any other party under the City Documents; (iv) the accuracy or inaccuracy of any representation and warranty made by Developer under this Agreement or by Developer or any other party under any City Document, (v) the release of Developer or any other person, by City or by operation of law, from performance of any obligation under any City Document; (vi) the release or substitution in whole or in part of any security; and (vii) City's failure to properly perfect any lien or security interest given as security for performance of Developer's obligations under the City Documents.

(c) The obligations of Developer to indemnify the Indemnitees shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of this Agreement.

11. Miscellaneous.

11.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties and recorded in the Official Records.

11.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Developer of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

11.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing and sent to the Parties and the Investor Limited Partner at their respective addresses specified below or to such other address as a Party or the Investor Limited Partner, as applicable, may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is

effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed to the sender by the delivery service.

City: City of Benicia
250 East L Street
Benicia, CA 94510
Attention: Mario Giuliani, City Manager
Telephone: (707)746-4289
Email: MGiuliani@ci.benicia.ca.us

With copy to: Burke, Williams & Sorensen, LLP
181 Third Street, Suite 200
San Rafael, CA 94901
Attention: Benjamin Stock, City Attorney
Telephone: (415) 755-2605
Email: bstock@bwslaw.com

Developer: Eden Benicia Senior Investors LP
c/o Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: Tami Strauss
Telephone: (510) 931-8210
Email: tami.strauss@edenhousing.org

With a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Evan Goss, Esq.
Telephone: (415)781-6600 ext. 6
Email: egoss@gubbbbarshay.com

11.4 Further Assurances. The Parties shall execute, acknowledge, and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

11.5 Parties Not Co-Venturers; Independent Contractor; No City Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of Developer and City shall not be construed as a joint venture, equity venture, partnership, or any other relationship. City neither undertakes nor assumes any responsibility or duty to Developer (except as expressly provided in the City Documents or in this Agreement) or to any third party with respect to the Project. Developer and its employees are not employees of City but rather are, and shall always be considered independent

contractors. Furthermore, Developer and its employees shall at no time pretend to be or hold themselves out as employees or agents of City. Except as City may specify in writing, Developer shall not have any authority to act as an agent of City or to bind City to any obligation.

11.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent, or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City's Authorized Representative or by any person who shall have been designated by the City's Authorized Representative, without further approval by the City Council.

11.7 Non-Liability of Officials, Employees, and Agents. No member, official, officer, employee, or agent of a Party shall be personally liable to the other Party or any successor in interest to such Party, in the event of any default or breach by such Party, or for any amount of money which may become due to such Party or its successor or for any obligation of such Party under the City Documents or this Agreement. Notwithstanding the foregoing, nothing set forth in this Section shall be deemed to limit or restrict the ability of City to seek or obtain a judgment against Developer or to enforce against Developer and its general partners to:

(A) recover under any provision of any City Document that obligates Developer to indemnify City, or

(B) recover from Developer and its general partners compensatory damages as well as other costs and expenses incurred by City (including without limitation reasonable attorneys' fees and expenses) arising as a result of the occurrence of any of the following: (a) any fraud or intentional misrepresentation on the part of the Developer, or any general partner thereof, or any officer, director or authorized representative of Developer or any general partner thereof in connection with the request for City funds, or in any City Document, or in connection with any request for any action or consent by City in connection with City funds; (b) any failure to maintain insurance on the Property and the Project as required pursuant to the City Documents; (c) failure to pay taxes, assessments or other charges which may become liens on the Property or the Project (subject to the right to contest as set forth in the City Documents); (d) the presence of Hazardous Materials on the Property or other violation of the Developer's obligations under the City Documents pertaining to environmental matters; (e) the occurrence of any act or omission of Developer that results in waste to or of the Project or the Property and which has a material adverse effect on the value of the Project or the Property; (f) the removal or disposal of any personal property or fixtures or the retention of rents, insurance proceeds, or condemnation awards in violation of the City Documents; and (g) the material misapplication of the proceeds of any insurance policy or award resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Project or the Property.

11.8 Headings; Construction; Statutory References. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party. All references in this Agreement to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the City of Cathedral City shall be deemed to include the same statute, regulation, ordinance, or

resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

11.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

11.10 Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Riverside County, California or in the Federal District Court for the Central District of California.

11.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

11.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

11.13 Entire Agreement; Exhibits. This Agreement, together with the DDA and the other City Documents, contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. Exhibits A through C attached hereto are incorporated herein by this reference.

11.14 Survival. Developer's obligations pursuant to Sections 2.1, 2.6, and 10, and all other provisions that expressly so state, shall survive the expiration or termination of this Agreement.

11.15 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE(S).

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

CITY:

City of Benicia, a California municipal corporation

By: _____

Print Name: _____

Title: City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

DEVELOPER:

Eden Benicia Senior Investors LP, a California limited partnership

By: Eden Benicia Senior LLC, a California limited liability company

Its: General Partner

By: Eden Housing, Inc., a California nonprofit public benefit corporation

Its: sole member/manager

By: _____

Print Name: _____

Title: _____

SIGNATURES MUST BE NOTARIZED.

ACKNOWLEDGMENT

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)
) ss
County of _____)

On _____, before me, _____,
(Name of Notary)

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.

(Notary Signature)

ACKNOWLEDGMENT

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)
) ss
County of _____)

On _____, before me, _____,
(Name of Notary)

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.

(Notary Signature)

Exhibit A

LEGAL DESCRIPTION OF THE PROPERTY

[to be inserted]

Exhibit B

Number of Units by Unit Size and Targeted Area Median Income (AMI) Levels

	30% AMI	50% AMI	80% AMI	Mgr Unit	Total
Studio	-	-	-	0	-
1-Bedroom	-	-	-	0	-
2-Bedroom	0	0	0	2	-
Total	-	-	-	2	-

Exhibit C

INSURANCE REQUIREMENTS

Prior to initiating work on the Project and continuing throughout the Term of this Agreement, Developer shall obtain and maintain the following policies of insurance and shall comply with all provisions set forth in this Exhibit.

(a) Commercial General Liability. A commercial general liability policy with coverage limits in the amount of the greater of (i) the amounts required by the senior construction and permanent lenders for the Project, or (ii) One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) annual aggregate, together with Five Million Dollars (\$5,000,000) excess liability coverage, or such other policy limits as City may reasonably require in its discretion, including coverage for bodily injury, property damage, products, completed operations, and contractual liability coverage. The coverage requirements for subcontractors shall be One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) annual aggregate. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

(b) Automobile. Comprehensive automobile liability coverage in the amount of One Million Dollars (\$1,000,000), combined single limit including coverage for owned and non-owned vehicles. Automobile liability policies shall name the Indemnitees as additional insureds.

(c) Workers' Compensation; Employer's Liability. Developer shall furnish or cause to be furnished to City evidence satisfactory to City that Developer and any contractor with whom Developer has contracted for the performance of work on the Property or otherwise pursuant to this Agreement carries Workers' Compensation insurance as required by law and Employer's Liability insurance in a minimum amount of One Million Dollars (\$1,000,000) per accident.

(d) Builder's Risk. Upon commencement of construction and continuing until issuance of a Certificate of Completion, Developer or the general contractor working on behalf of Developer shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee as its interests may appear.

(e) Professional Liability/Errors and Omissions. Professional Liability/Errors and Omissions insurance as appropriate for design/build operations with limits not less than One Million Dollars (\$1,000,000) each claim. If the professional liability/errors and omissions insurance is written on a claims made basis: (i) the retroactive date must be shown and must be before the Effective Date, (ii) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of Project construction/rehabilitation, and (iii) if coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the Effective Date, Developer must purchase extended period coverage for a minimum of three (3) years after completion of construction/rehabilitation.

(f) Property. Commencing upon the Effective Date, Developer shall maintain property insurance covering all risks of loss, including earthquake (if required) and flood (if required) for

100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, naming City as loss payee as its interests may appear.

(g) Insurance Providers. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A: VII.

(h) Evidence of Insurance, Endorsements, Policies. Prior to the Effective Date of this Agreement, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage, duly executed endorsements evidencing the Indemnitees' status as additional insured, and all other endorsements and coverage required hereunder. The certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination, or non-renewal. All insurance certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination, or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination, or non-renewal. Upon City's request, Developer shall, within thirty (30) days of the request, provide, or arrange for the insurer to provide to City, complete certified copies of all insurance policies required under this Agreement. City's failure to make such request shall not constitute a waiver of the right to require delivery of the policies in the future.

(i) Additional Insured Endorsements. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 20 10 10 01 and CG 20 37 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Coverage shall be at least as broad as CG 20 10 04 13.

(j) Reinstatement. If any insurance policy or coverage required hereunder is canceled or reduced, Developer shall, within five (5) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Developer's expense, and Developer shall promptly reimburse City for such expense upon receipt of billing from City.

(k) Primary Coverage; Waiver of Subrogation; Annual Aggregate Limits. All coverage shall be primary insurance and shall not be contributing with any insurance, or self-insurance maintained by City, and the policies shall so provide. Each insurance policy shall contain a waiver of subrogation for the benefit of the City. If any of the required insurance is provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs are included in such annual aggregate limit, such annual aggregate limit shall be three (3) times the occurrence limits specified above.

(l) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to reasonable approval by, City's Risk Manager. At the option of and upon request by City's Risk Manager, if the Risk Manager determines that such deductibles or

retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects the Indemnitees or Developer shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses, or Developer shall provide the City with some other assurance of payment thereof reasonably acceptable to the City.

(m) Adjustments. The limits of the liability coverage and, if necessary, the terms and conditions of insurance, shall be reasonably adjusted from time to time (not less than every five (5) years after the Effective Date nor more than once in every three (3) year period) to address changes in circumstances, including, but not limited to, changes in inflation and the litigation climate in California. Within thirty (30) days following City's delivery of written notice of any such adjustments, Developer shall provide City with amended or new insurance certificates and endorsements evidencing compliance with such adjustments.

(n) Additional Insured Coverage; Liability Limits. For all liability insurance required by this Agreement, Developer (and Developer's contractors, as applicable) shall obtain endorsements that name the Indemnitees as additional insured in the full amount of all applicable policies, notwithstanding any lesser minimum limits specified in this Agreement. This Agreement requires Developer (and Developer's general contractor, as applicable) to obtain and provide for the benefit of the Indemnitees additional insured coverage in the same amount of insurance carried by Developer (or Developer's contractors, as applicable), but in no event less than the minimum amounts specified in this Agreement. In the event that Developer (or Developer's general contractor as applicable) obtains insurance policies that provide liability coverage in excess of the amounts specified in this Agreement, the actual limits provided by such policies shall be deemed to be the amounts required under this Agreement. Without limiting the foregoing, the limits of liability coverage specified in this Agreement are not intended, nor shall they operate, to limit City's ability to recover amounts in excess of the minimum amounts specified in this Agreement.

Attachment No. 6

Grant Deed

RECORDING	REQUESTED	BY	)
AND WHEN RECORDED MAIL TO:			)
			)
City of Benicia			)
250 East L Street			)
Benicia, CA 95510			)
Attention: City Clerk			)
			)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

GRANT DEED

For valuable consideration, the receipt of which is hereby acknowledged:

The CITY OF BENICIA, a California municipal corporation (“**City**” or “**Grantor**”), hereby grants to EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Grantee**”), the real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto and incorporated herein by this reference (collectively the “**Site**”).

1. Grantor and Grantee are parties to a Disposition and Development Agreement dated for identification purposes as of _____, 20__ (“**DDA**”). The Site is conveyed subject to all matters of record. The Grantor and Grantee have executed a Memorandum of Disposition and Development Agreement (“**Memorandum of Agreement**”) and an Affordable Housing Covenant each dated concurrently herewith and recorded against the Site. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the DDA.

2. Grantee covenants by and for itself, its executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) 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 premises herein conveyed, nor shall the Grantee or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.

All deeds, leases or contracts made relative to the Site, the improvements thereon or any part thereof shall contain or be subject to substantially the following nondiscrimination clauses:

a. **In deeds:**

(1) “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons

claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) 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 premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

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

b. In leases:

(1) “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 premises 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 premises herein leased.

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

citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

- c. **In contracts:** “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 premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises.”

The provisions of this paragraph 2 shall run with the land and shall be contained in each subsequent grant deed conveying title to the Site to any subsequent owner.

3. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted by the DDA, provided, however, that any successor of Grantee to the Site shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor’s title was acquired by foreclosure, deed in lieu of foreclosure, trustee’s sale or otherwise.

4. The covenants against discrimination contained in paragraph 2 of this Grant Deed shall remain in perpetuity.

5. The covenants contained in this Grant Deed shall be binding on Grantee and its heirs, executors, successors and assigns and any successor in interest to the Site or any part thereof, and such covenants shall run in favor of the Grantor and its successors and assigns for the entire period during which such covenants and option shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants or option relate. The Grantor, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

6. In the event of any express conflict between this Grant Deed and the DDA, the provisions of this Grant Deed shall control.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers thereunto duly authorized as of the date noted below.

GRANTOR:

CITY OF BENICIA, a California municipal corporation

By: _____
Mario Giuliani, City Manager
[Signature must be notarized]

Date: _____, 20____

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

The provisions of this Grant Deed are hereby approved and accepted by Grantee.

GRANTEE:

**EDEN BENICIA SENIOR
INVESTORS LP**, a California limited
partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

By: EDEN HOUSING, INC.,
a California non-profit public benefit
corporation, its sole member/manager

By: _____
Andrea Osgood, Chief of Real
Estate Development and Executive
Vice President

[Signature must be notarized]

Date: _____, 20____

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the Subdivision Map)

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Attachment No. 7

Certificate of Completion

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City of Benicia)
250 East L Street)
Benicia, CA 95510)
Attention: City Clerk)
)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

CERTIFICATE OF COMPLETION

THIS CERTIFICATE OF COMPLETION (“**Certificate of Completion**”) is made by the CITY OF BENICIA, a California municipal corporation (“**City**”), for the benefit of EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”), as of the date set forth below.

RECITALS

A. City and Developer have entered into that certain Disposition and Development (“**DDA**”) dated _____, 20____, a Memorandum of Agreement of which was recorded on _____, 20____, in the Official Records of Solano County as Instrument No. _____, concerning the redevelopment of certain real property (“**Site**”) situated in the City of Benicia, California, as more fully described in Exhibit A-1 and Exhibit A-2 attached hereto and made a part hereof. Pursuant to the DDA, City conveyed fee title to the Site to Developer or on or about _____, 20____.

B. City and Developer are also Parties to an [*Affordable Housing Covenant dated _____, 20____, recorded against the Site in the Official Records of Solano County as Instrument No. _____*] (“**Affordable Housing Covenant**”).

C. As provided in Section 310 of the DDA, City is required to furnish Developer or its successors with a Certificate of Completion upon satisfactory completion of the Project Improvements (as defined in Section 301 of the DDA). This Certificate of Completion is City’s conclusive determination of Developer’s satisfactory completion of the construction and development of the Project Improvements required by the DDA.

NOW, THEREFORE, City hereby certifies as follows:

1. The work of the Project Improvements to be constructed by Developer has been fully and satisfactorily completed in conformance with the DDA.

2. All affordable housing, use, maintenance, nondiscrimination and other covenants contained in the Affordable Housing Covenant shall remain in effect and enforceable according to their terms.

3. This Certificate of Completion shall not be deemed or construed to constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a

mortgage, or any insurer of a mortgage, securing money loaned to finance the construction and development of the Project Improvements on the Site or portion thereof. This Certificate of Completion is not a notice of completion as referred to in section 3093 of the California Civil Code.

IN WITNESS WHEREOF, City has executed this Certificate of Completion this _____ day of _____, 20____.

CITY OF BENICIA, a California municipal corporation

By:_____

Print Name:_____

Its: City Manager

[notary acknowledgment required]

ATTEST:

City Clerk

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the Subdivision Map)

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

RESOLUTION NO. 26-1 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA FINDING THE PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT FOR BENICIA SENIOR AFFORDABLE HOUSING CONSISTENT WITH THE BENICIA GENERAL PLAN.

WHEREAS, the City of Benicia is the owner of real property located at 187 East L Street, Benicia, CA (APNs: Parcel 1 0088-113-010, 0088-113-020 and 0088-113-030; Parcel 2 0088-141-060; and Parcel 3 0088-141-070) (“Senior Center Site”) and at an unaddressed parcel at East L Street and East 4th Street, Benicia, CA (APN 0088-124-130) (“Scout Property”); and

WHEREAS, the Scout Property was offered for disposition following completion of the “small parcel exemption” of Government Code sections 541221(f)(1)(B) and 54222.3 for lots smaller than 0.5 acres; and

WHEREAS, on October 29, 2024, the City Council adopted Resolution No. 24-119 and thereby declared the Senior Center Site exempt surplus land and on December 5, 2024 the State Department of Housing and Community Development (“HCD”) notified the City that HCD found that the Senior Center Site qualifies as exempt surplus land under Government Code Section 54221(f)(1)(F); and

WHEREAS, on January 6, 2025, the City issued Requests for Proposals for the development of affordable housing on the Scout Property and Senior Center Site; and

WHEREAS, Eden Benicia Senior Investors, LP (“Eden Housing”) was selected as the responsive bidder and has proposed a senior citizen housing development that would include: at least ninety (90) rental units in two buildings on the Senior Center Site and one building on the Scout Property all available to Extremely Low-, Very Low-, and Low-income households; two manager’s units (one on the Senior Center Site and one on the Scout Property); a cold shell build out of a new senior center of not less than 6000 square feet on the Senior Center Site; a 19,000 square foot pedestrian promenade open space, and potential for a replacement public restroom, and new podium and surface parking; and

WHEREAS, the proposed Disposition and Development Agreement (DDA, Exhibit A) would set forth the terms and conditions relating to the disposition of the Scout Property and Senior Center Site to Developer; the development and maintenance of the Project by Developer; and the imposition of covenants running with the land to ensure the long-term affordability of the units on the Site; and

WHEREAS, the Planning Commission, at a regular meeting on April 9, 2026 considered the DDA and accepted public comment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia does hereby find:

The proposed disposition of the Senior Center Site and the Scout Property implement the Housing Element and are covered by the Environmental Impact Report (SCH Number 2022060021) (EIR) for the City of Benicia Housing Element and Safety Element Updates certified by the City on January 24, 2023, pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Code § 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §15000 et seq.). In addition, the disposition and the DDA are exempt pursuant to Sections 15194, 15312, and 15332 of the CEQA Guidelines, which apply to affordable housing, sales of surplus government property, and infill development. The proposed project is 100% affordable housing to be developed on approximately 2.75 acres of infill sites within the City of Benicia urbanized area. The property subject to the DDA has qualified for disposition under the Surplus Lands Act and is not located in an area of statewide, regional, or areawide concern identified in CEQA Guidelines Section 15206(b)(4).

BE IT FURTHER RESOLVED that the Planning Commission of the City of Benicia hereby finds that the DDA is consistent with the Benicia General Plan pursuant to Government Code Section 65402(a) as follows:

1. The DDA is consistent with Goal 2.1 of the Benicia General Plan by facilitating the development of housing for older adults within a core area of the community that is within the UGB and is well-served by transit, services and pedestrian infrastructure. The project will make efficient use of land and will be reviewed for consistency with the City's adopted policy and development standards, ensuring compatibility. The nearby library, sports, civic and recreational facilities, along with replacement of the Senior Center, will enhance the vibrancy and sense of community for the Civic Center area and provide a high quality of life for residents.
 - Community Development and Sustainability Goal 2.1: Preserve Benicia as a small-sized city.

"Small-sized city" refers to Benicia's open and uncluttered space, safe neighborhoods and streets, pedestrian-friendly streets, the "Main Street" character of First Street, open vistas of hills and water, historic sites and buildings, strong sense of community and civic pride, good schools, well developed community facilities including parks and a library, low-crime, small town atmosphere, and numerous community-wide celebrations, cultural events, and family-oriented activities.

 - Policy 2.1.1: Ensure that new development is compatible with adjacent existing development and does not detract from Benicia's small town

qualities and historic heritage (and to the extent possible contributes to the applicable quality of life factors noted above.)

“Compatible” means “capable of existing together without detrimental effects.” This policy applies broadly and citywide to residential and non residential uses. Its purpose is to ensure harmonious development in terms of intensity, and architectural character. It is not intended to restrict new buildings or additions to exact duplications of styles or heights; nor is it intended to limit new uses or densities to those found in adjacent existing development. This policy also is not intended to restrict the conversion of single-family dwellings to apartments if the parcel is zoned for multifamily use and if there are other multifamily uses nearby.

- Policy 2.1.2: Make efficient use of land in new development areas consistent with the surrounding neighborhood.
- Policy 2.1.7: The City shall promote compact urban development within the UGB (“Urban Growth Boundary”) and shall encourage development of public, semi public, active recreational, and all other uses deemed desirable for the community inside the UGB.

2. The DDA implements Goal 2.14 of the Benicia General Plan. The Scout Property is located in the Eastern Gateway Area and will be the first site development under the recently-adopted zoning framework. The DDA will facilitate development of multifamily uses, affordable to older adults, that increases overall housing supply and directly responds to the General Plan aspirations for this neighborhood.
 - Community Development and Sustainability Goal 2.14: Establish a mixed-use activity center with new multifamily housing and commercial uses in the Eastern Gateway Area,
 - Policy 2.14.2: Provide for a variety of housing types, affordable to a range of household incomes, including workforce housing, older adult housing, artist housing and a mix of rental and owner occupied units.
3. The DDA is consistent with Goal 3.6 of the Benicia General Plan because it will require that Eden Housing dedicate two areas for public art. This will enhance the Civic Center area as a node for public art, as such amenities already exist on art-benches and a mosaic wall mural at the library.
 - Community Identity Goal 3.6: Support and promote the arts as a major element in Benicia’s community identity.
 - Policy 3.6.3: Enhance public places with art.
 - Program 3.6.C: Work with developers and builders to incorporate public art into projects, where applicable.
4. The DDA is consistent with Goal 1 of the Benicia Housing Element and directly implements Program 1.16 because it facilitates the disposition and development of City-owned sites with at least 90 units of lower-income housing.

- Housing Element Goal 1: Benicia shall be an active leader in attaining the goals of the City's Housing Element.
 - Policy 1.05: The City will continue to provide incentives for affordable housing.
 - Program 1.16: The City will utilize City-owned sites to develop 100% affordable housing projects (including units in a range of sizes and types), mixed income housing projects and projects without affordable units. Nine of the City-owned sites (comprised of 17 total parcels) included in the sites inventory will require more focus through this program either because they include lower income units in the inventory or are non-vacant or because they require rezoning (opportunity sites). There are some additional vacant City-owned sites with moderate and/or moderate units assigned to them that are already suitably zoned. The City will make such parcels available to developers building affordable housing or otherwise ensure the development of housing on such sites. This process will begin with a review of assets to create a City-owned site affordable housing inventory (will include list of surplus properties) by December 31, 2023. The process to make City-owned sites available will include outreach to create partnerships with affordable housing developers that can maximize the opportunities and number of units. This will include facilitation of lot consolidation (as described in Program 1.15) on any city sites in the list below that could benefit from lot consolidation to create a project. This process will be undertaken by June 2024. The City will initiate the Surplus Lands Act (SLA) process to pursue affordable housing projects in the city. The City will require an affordability covenant recorded against the land stipulating a specified percent of the total units developed will be affordable to lower-income households, in accordance with State law. The City will comply with State law to implement the SLA process as follows:
 - The City will declare land "surplus" in accordance with the definition listed in Government Code, Section 54221, subdivision (b)(1).
 - The City will prepare and issue a Notice of Availability (NOA) to the required parties and provide 60 days to receive responses from interested parties.
 - The City will negotiate in good faith with any respondents for at least 90 days, prioritizing affordable housing uses in the order provided in Government Code section 54227.
 - The City will send the proposed disposition to the State for review.
 - The City will address any State findings, as needed.

- Upon final State approval, the City will execute a sale or lease of the land and record an affordability covenant.

Once a list of qualified developers is complete, the first three RFPs will be issued by the end of 2024, in order to begin construction within two years and complete within the housing element cycle period. Three more RFPs on additional City-owned sites will be issued by the end of 2026. Three additional RFPs will be issued by the end of 2028. The City-owned sites listed in the tables at the end of Chapter III and Appendix D (Table A and B) subject to this program are:

- Site 3: E Street Lot #1 – 19 units: 11 lower-income units, 4 moderate-income units, 4 above moderate-income units
- Site 4: E Street Lot #2 - 19 units: 11 lower-income units, 4 moderate-income units, 4 above moderate-income units
- Site 12: 356 East I Street - 4 units: 2 lower-income units, 1 moderate-income units, 1 above moderate-income units
- Site 13: Senior Center and Adjacent Land - 21 lower-income units
- Site 22: 612 East I Street - 6 total units: 3 moderate-income units, 3 above moderate-income units
- Site 23: 600 Block of East I Street - 9 total units: 4 moderate-income units, 5 above moderate-income units
- Site 32: Benicia Fire Museum Site - 13 lower-income units

5. The DDA is consistent with Goal 3 of the Benicia Housing Element because it would facilitate development of housing for seniors.
 - Housing Element Goal 3: Accommodate the housing needs of special population groups.
 - Policy 3.01: Facilitate the development of shelters for the homeless, transitional and supportive housing, housing for seniors, and housing for persons with physical, developmental, or mental disabilities.

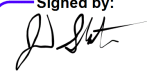
On motion of Commissioner Lyle and seconded by Commissioner Jessen , the above Resolution is introduced and adopted by the Planning Commission of the City of Benicia at a regular meeting of the Commission held on the 9th day of April 2026 and adopted by the following vote:

Ayes: Commissioners Donaghue, Gilpin-Hayes, Gorman, Jessen, Lyle, Marshall and Chair Slate

Noes: None

Absent: None

Abstain: None

Signed by:

889640AFC3144C2...

Jarrod Slate, Chair

4/14/2026

Date

Exhibit A

Exhibit A Disposition and Development Agreement

Exhibit A

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between the

CITY OF BENICIA,
a California municipal corporation,

and

EDEN BENICIA SENIOR INVESTORS LP

a California limited partnership,

Dated: _____, 2026

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ATTACHMENTS

- Attachment No. 1-A Site Map
- Attachment No. 1-B Senior Center Conveyance Parcel Site Map
- Attachment No. 2-A Senior Center Site Legal Description
- Attachment No. 2-B Scout Property Legal Description
- Attachment No. 2-C Senior Center Conveyance Parcel Legal Description
- Attachment No. 2-D Retained Site Legal Description
- Attachment No. 3 Memorandum of Agreement
- Attachment No. 4 Schedule of Performance
- Attachment No. 5 Affordable Housing Agreement & Declaration of Restrictive Covenants
- Attachment No. 6 Grant Deed
- Attachment No. 7 Certificate of Completion

Exhibit A

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into by and between the CITY OF BENICIA, a California municipal corporation (“**City**”), and EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”), as of the Date of Agreement (as defined in Section 101).

RECITALS

The following recitals are a substantive part of this Agreement; capitalized terms used herein and not otherwise defined are defined in Section 101 of this Agreement:

A. City is the owner of that certain real property located at 187 East L Street, Benicia, CA (APNs: Parcel 1 0088-113-010, 0088-113-020 and 0088-113-030; Parcel 2 0088-141-060; and Parcel 3 0088-141-070) (“**Senior Center Site**”) as more particularly depicted on the Site Map attached hereto as Attachment-1-A (“**Site Map**”) and described in Attachment No.2-A (“**Senior Center Site Legal Description**”) and East L Street and East 4th Street, Benicia, CA (APN 0088-124-130) (“**Scout Property**”) as more particularly depicted on the Site Map and described in Exhibit 2-B (“**Scout Property Legal Description**”). The portion of the Senior Center Site that will be conveyed to Developer after the Subdivision Map records is referred to herein as the Senior Center Conveyance Parcel. The Senior Center Conveyance Parcel and the Scout Property are referred to collectively herein as the “**Site**”. The portion of the Senior Center Site that will be retained by City for the cold shell build out of a new senior center by Developer after the Subdivision Map records shall be referred to herein as the “**Retained Site**”. The approximate boundaries of the Senior Center Conveyance Parcel and the Retained Site are depicted on the map attached hereto as Attachment-1-B, the “**Senior Center Conveyance Parcel Site Map**”.

B. On October 29, 2024 the City Council adopted Resolution No. 24-119 and thereby declared the Senior Center Site exempt surplus land and on December 5, 2024 the State Department of Housing and Community Development (“**HCD**”) notified the City that HCD found that the Senior Center Site qualifies as exempt surplus land under Government Code Section 54221(f)(1)(F).

C. The City determined that the Scout Property was exempt surplus land under the small parcel exemption set forth in the Surplus Lands Act and provided notice of that determination in accordance with Government Code Section 54221, no comments were received in response to the notice, and on January 7, 2025, HCD notified the City that HCD found that the Scout Property qualifies as exempt surplus land under Government Code Section 54221(f)(1)(B).

D. On January 6, 2025, the City issued Requests for Proposals for the development of affordable housing on the Site. The City received one response from Developer.

E. Developer has proposed a senior citizen housing development as defined by Section 51.3 of the California Civil Code on the Site. The proposed development includes: approximately ninety seven (97), but in no event less than ninety (90) rental units in two buildings on the Senior Center Site and one building on the Scout Property all available to Extremely Low-, Very Low-, and Low-income households with a mix of predominantly one-bedroom units with a small percentage of studio units on the Scout Property; two 2-bedroom manager’s units (one on the Senior Center Site and one on the Scout Property); a cold shell build out of a new senior center of

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not less than 6000 square feet on the Senior Center Site; an approximately 19,000 square foot pedestrian promenade open space, and potential for a replacement public restroom, and new podium and surface parking (the “**Project**”).

F. City and Developer desire to enter into this Agreement to set forth the terms and conditions relating to: (i) the disposition of the Site to Developer; (ii) the development and maintenance of the Project by Developer; and (iii) the imposition of covenants running with the land to ensure the long-term affordability of the units on the Site.

G. The fulfillment of this Agreement is in the vital and best interests of City and the health, safety, and welfare of its residents and in accord with the provisions of applicable federal, state and local law.

AGREEMENT

NOW, THEREFORE, City and Developer hereby agree as follows:

100. DEFINITIONS; REPRESENTATIONS AND WARRANTIES

101. Definitions.

“*Adjusted for family size appropriate to the unit*” shall have the meaning set forth in Section 50052.5 of the California Health and Safety Code, as amended or any successor statute thereto, subject to the application of federal rules and regulations, if applicable, to financing sources for all or a portion of the Project, including applicable federal and TCAC regulations.

“*Affiliate of Developer*” means an entity or entities in which Developer retains more than fifty percent (50%) in the aggregate, directly or indirectly, of the ownership or beneficial interest and retains full management and control of the day-to-day affairs of the transferee entity or entities, either directly or indirectly through another entity, subject only to certain major events requiring the consent or approval of the other owners of such entity.

“*Affordable Housing Covenant*,” as defined in Section 405, means the Affordable Housing Agreement and Declaration of Restrictive Covenants, attached hereto as Attachment No. 5.

“*Affordable Rent*” shall mean rental rates no greater than that considered as affordable rent for Extremely Low-, Very Low-, and Low-Income Households, as applicable to the Eligible Household, adjusted for family size appropriate to the unit, determined in accordance with California Health and Safety Code Section 50053, as amended, or any successor statute thereto; provided, however, in no event shall the maximum affordable rent be higher than 20 percent below the median market rate rents for the neighborhood in which the Site is located; and provided, further that for lower income households with gross incomes that exceed 60 percent of the Area Median Income adjusted for family size appropriate to the unit, rental rates may be established at a level not to exceed 30 percent of Gross Income of the household. Notwithstanding the foregoing, if applicable to financing sources for all or a portion of the Project, during the fifteen (15) year tax credit compliance period under Internal Revenue Code Section 42, or such longer term of the regulatory agreement to be executed by TCAC and Developer and recorded against the applicable

Exhibit A

portion of the Project, the City hereby permits Developer to use the occupancy standards and rent levels required by TCAC.

“Affordable Unit” and ***“Affordable Units”*** are defined in Section 402.

“Agreement” means this Disposition and Development Agreement between City and Developer.

“Approvals” means the Project Approvals and any Subsequent Approvals.

“Area Median Income” means the median household income (adjusted for family size appropriate to the unit) of the Metropolitan Statistical Area in which Solano County is located, as established pursuant to California Health and Safety Code Sections 50093 and 50105, as amended or any successor statute thereto, or as applicable, the median income for Solano County, California, adjusted for family size appropriate to the unit, as determined by TCAC regulations.

“Certificate of Completion,” as defined in Section 310, means the document evidencing Developer’s satisfactory completion of construction and installation of the Project Improvements, attached hereto as Attachment No. 7.

“City” means the City of Benicia, a California municipal corporation.

“City Consultant Cost Deposit” is defined in Section 210.

“City Council” means the City Council of the City of Benicia.

“City Manager” means the City Manager of the City of Benicia, or their designee.

“City Municipal Code” means the Municipal Code of the City of Benicia.

“City Parties” is defined in Section 306.

“City’s Conditions Precedent to Closing” is defined in Section 205.1.

“Claims” means demands, lawsuits, liabilities, obligations, claims, damages, fines, penalties, expenses, costs, and cause of actions (including reasonable attorneys’ fees), whether at law or in equity.

“Closing” is defined in Section 202.4.

“Closing Costs” is defined in Section 202.1.

“Closing Date” is defined in Section 202.4.

“Commence Construction” and ***“Commencement of Construction”*** are defined in Section 303.

“Complete Construction” and ***“Completion of Construction”*** are defined in Section 303.

“Condition of Title” is defined in Subsection 203.

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“Construction Contract” is defined in Section 305.1.

“Construction Drawings” is defined in Section 304.2.

“Consultant Costs” is defined in Section 210.

“Conveyance” means the conveyance of fee title to the Site by City to Developer.

“County” means the County of Solano.

“Date of Agreement” means the date on which this Agreement is signed by the City Manager on behalf of City as indicated on the signature page hereof.

“Davis-Bacon” is defined in Subsection 308.2.

“Default” is defined in Section 601.

“Developer” means Eden Benicia Senior Investors LP, a California limited partnership.

“Developer Plans” is defined in Section 604.

“Developer’s Conditions Precedent to Closing” is defined in Section 205.2.

“Eligible Household” means an Extremely Low-Income Household, Very Low-Income Household, or Low-Income Household qualified in accordance with the terms of this Agreement, the Affordable Housing Covenant and Sections 50106, 50105, and 50079.5, respectively, of the California Health and Safety Code, as amended or any successor statute thereto.

“Escrow” is defined in Section 202.

“Escrow Agent” is defined in Section 202.

“Evidence of Financing” is defined in Section 501.2.

“Exceptions” is defined in Section 203.

“Extremely Low-Income Household” is defined in Section 50106 of the California Health and Safety Code, as amended or any successor statute thereto.

“Financial Assistance” is defined in Section 102.2.

“Grant Deed” means the document effecting the Conveyance to be recorded in the Official Records at Closing, attached hereto as Attachment No. 6.

“Hazardous Materials” means any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including any material or substance which is: (i) defined as a “hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a “hazardous substance” under

Exhibit A

Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) friable asbestos; (vii) polychlorinated biphenyls; (viii) listed under Article 9 or defined as “hazardous” or “extremely hazardous” pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1317); (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, (42 U.S.C. § 6903); or (xi) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.*, as the foregoing statutes and regulations now exist or may hereafter be amended.

“Implementing Agreements” is defined in Section 210.

“Interest” and **“Interests”** are defined in Section 103.1.

“Laws” means all laws, ordinances, statutes, codes, rules, regulations, orders and decrees, of the United States, the State of California, County, City, any other political subdivision in which the Site is located, and of any other political subdivision, City or instrumentality exercising jurisdiction over City, Developer, the Site or the Project Improvements, including all applicable state labor laws and standards (including prevailing wages, as applicable); all applicable public contracts requirements, zoning and development standards; building, plumbing, mechanical and electrical codes; all other provisions of the City Municipal Code; and all applicable disabled and handicapped access requirements, including the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

“Low-Income Household” is defined in Section 50079.5 of the California Health and Safety Code, as amended, or any successor statute thereto.

“Marketing Plan” is defined in Section 402.3.

“Memorandum of Agreement,” as defined in Section 704, means the Memorandum of Disposition and Development Agreement, attached hereto as Attachment No. 3.

“MMRPs” means the mitigation monitoring and reporting program: a) adopted by the City Council pursuant to Resolution No. 23-1 upon certification of the Final Environmental Impact Report for the Housing and Safety Element Updates (SCH No. 2022060021) which applies to both the Senior Center Site and the Scout Property; and b) adopted by the City Council pursuant to Resolution No. 22-3 with the adoption of the Initial Study and Mitigated Negative Declaration for the Eastern Gateway Mixed-Use Districts which applies to the Scout Property.

“Notice” is defined in Section 701.

“Official Records” means the official records of the Office of the County Clerk-Recorder of the County of Solano.

Exhibit A

“**Option Price**” is defined in Section 605.

“**Outside Date**” is defined in Section 202.4.

“**Owner**” means the owner of fee title to the Site.

“**Owner’s Title Policy**” is defined in Section 204.

“**Planning Commission**” means the City of Benicia Planning Commission.

“**Pre-Approved Exceptions**” is defined in Section 203.

“**Preliminary Financing Report**” is defined in Section 501.1.

“**Project**” is defined in Recital E.

“**Project Approvals**” is defined in Section 302.1.

“**Project Improvements**” means the improvements to be designed and constructed by Developer on the Site as provided herein and described in Section 301.

“**Property Manager**” is defined in Section 402.5.

“**Property Manager Unit**” is defined in Section 402.2.

“**Public Financing**” is defined in Section 501.1.

“**Purchase Price**” is defined in Section 201.

“**Retained Site**” is defined in Recital A and is depicted on the Senior Center Conveyance Parcel Site Map.

“**Retained Site Legal Description**” means the legal description of the Retained Site attached hereto as Attachment 2-D to be inserted after the recordation of the Subdivision Map.

“**Schedule of Performance**” means the Schedule of Performance attached hereto as Attachment No. 4, setting out the dates and/or time periods by which certain obligations of City and Developer set forth in this Agreement must be accomplished.

“**Schematic Plans**” is defined in Section 304.1.

“**Scout Property**” is defined in Recital A.

“**Senior Center Site**” is defined in Recital A. For the avoidance of doubt, all references in this Agreement to the Senior Center Site shall mean the portion of the Senior Center Site that is being conveyed to Developer after the Subdivision Map records.

“**Senior Center Conveyance Parcel**” is defined in Section 302.3.

Exhibit A

“Senior Center Conveyance Parcel Legal Description” means the legal description of the Senior Center Conveyance Parcel attached hereto as Attachment 2-C to be inserted after the recordation of the Subdivision Map.

“Senior Center Conveyance Parcel Site Map” means the map attached hereto as Attachment 1-B depicting the approximate boundaries of the Senior Center Conveyance Parcel and the Retained Site. The Senior Center Conveyance Parcel Site Map will be replaced with a map depicting the actual boundaries of the Senior Center Conveyance Parcel and the Retained Site after the recordation of the Subdivision Map.

“Site” is defined in Recital A.

“Site Improvements” is defined in Section 301.

“Site Legal Descriptions,” as defined in Recital A, means the legal description of the Senior Center Site and the Scout Property attached hereto as Attachment No. 2-A and Attachment No. 2-B respectively.

“Site Management Plan” is defined in Section 402.5.

“Site Map,” as defined in Recital A, means the map of the Site attached hereto as Attachment No 1.

“Soft Sources of Funding” means all funding sources necessary to construct the Project other than tax credits and senior construction and permanent loan financing.

“State Labor Code” is defined in Subsection 308.2(a).

“Subordination Agreement – Affordable Units” is defined in Section 405.

“Subsequent Project Approvals” is defined in Section 302.2.

“Subdivision Map” means a parcel map or tentative map in accordance with the Subdivision Map Act, Government Code Sections 66410, *et seq.*, and the Municipal Code to remove those portions of the Senior Center Site, that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, and which creates the Retained Site.

“Supportive Services Plan” is defined in Section 402.4.

“TCAC” means the California Tax Allocation Committee.

“Title Company” is defined in Section 202.

“Title Report” is defined in Section 203.

“Transfer” is defined in Section 605(d).

“Very Low-Income Household” is defined in Section 50105 of the California Health and Safety Code, as amended or any successor statute thereto.

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102. Representations and Warranties.

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

(a) **Authority.** City is a California municipal corporation, which has been authorized to transact business pursuant to action of the City Council of the City. City has full right, power and lawful authority to perform its obligations hereunder and the execution, performance and delivery of this Agreement by City has been fully authorized by all requisite actions on the part of 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 a breach under any contract, agreement or order to which City is a party or by which it is bound.

(c) **Litigation.** To the best of City's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Site or any portion thereof, at law or in equity before any court or governmental entity, domestic or foreign.

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

(a) **Authority.** Developer is a limited partnership, duly organized under, and qualified to do business and in good standing under, the laws of the State of California. Developer has full right, power and lawful authority to perform its obligations hereunder and the execution, performance and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of 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 a breach under any contract, agreement or order to which Developer is a party or by which it is bound.

(c) **No Developer Bankruptcy.** Developer is not the subject of any voluntary or involuntary bankruptcy proceeding, and there has been no general assignment or general arrangement for the benefit of any of Developer's creditors, and no trustee or receiver has been appointed to take possession of substantially all of the assets of Developer.

(d) **No City Member Financial Interest.** No member, official or employee of Developer has any personal interest, direct or indirect, in this Agreement, the Site, the Project Improvements to be constructed thereon, or in any other development project or business venture in which Developer is the controlling or managing member, general partner or majority shareholder.

(e) **Need for Financial Assistance.** The Project Improvements are not financially feasible without the Conveyance of the Site to Developer pursuant to the provisions set forth in Section 201 (the "**Financial Assistance**"). The pro forma dated April 7, 2025, which supports Developer's need for Financial Assistance is true, correct and complete in all material respects as of the date of the pro forma.

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102.3 Material Changes. Until the issuance of a Certificate of Completion for the Project Improvements, Developer, upon learning of any fact or condition that would cause any of the warranties and representations in Section 102 not to be true in material respects, shall give written notice of such fact or condition to City within five (5) days of Developer learning such fact or condition.

103. Prohibition Against and Limitations on Change in Ownership, Management and Control of Developer.

103.1 General. The qualifications and identity of the Developer are of particular concern to City. It is because of such demonstrated qualifications and identity that City has entered into this Agreement with Developer. No voluntary or involuntary successor in interest of Developer shall acquire any interest in the Site or Project Improvements or any portion thereof, or any rights or powers under this Agreement (each of the foregoing is referred to herein as an “**Interest**” and collectively as “**Interests**”), except as expressly set forth herein. It is expressly stipulated and agreed that any assignment, sale, transfer or other disposition of all or any portion of the Site or any interest therein or any rights or powers under this Agreement in violation of this Section 103 shall be null, void and without effect and shall be ineffective to relieve Developer of its obligations under this Agreement. After issuance of the Certificate of Completion, this Section 103 shall no longer apply and the restrictions on transfer shall be as set forth in the Affordable Housing Covenant.

103.2 Assignment.

(a) Except for pre-approved transfers described in Section 103.3, prior to issuance of a Certificate of Completion with respect to the Project Improvements, Developer shall not assign or transfer any Interest without the prior written approval of the City Manager, in their sole discretion. The City Manager shall have the right to disapprove any transfer or assignment that would materially diminish or otherwise materially impair the ability of Developer to fulfill its duties and obligations under this Agreement.

(b) Developer shall promptly notify City in advance of any proposed transfer or assignment of any Interest. The City Manager shall approve or disapprove the requested transfer or assignment within sixty (60) days after receipt of a written request for approval, together with such documentation as may be reasonably requested by the City Manager in order to evaluate the proposed assignee’s/transferee’s experience and qualifications, including all loan documents in connection with any proposed financing or refinancing and all documentation which the City Manager determines is reasonably necessary to evaluate the proposed transaction and the proposed assignee’s/transferee’s experience and qualifications. Notice of a proposed transfer or assignment shall not be required with respect to those pre-approved transfers listed in Subsections 103.3(b) or 103.3(d). While pre-approved transfers described in Subsections 103.3(a), 103.3(c) and 103.3(e) do not require the prior approval of the City, Developer is required to provide notice of a proposed transfer or assignment of those pre-approved transfers described in Subsections 103.3(a), 103.3(c) and 103.3(e).

(c) In addition, Developer shall deliver to the City Manager a proposed written assignment and assumption agreement in which the assignee would expressly agree to assume all rights and obligations of Developer under this Agreement which arise after the effective date of the assignment, and in which the assignee would agree to assume, or Developer would

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expressly remain responsible for, all performance of Developer which arose prior to the effective date of the assignment. The assignment and assumption agreement shall be in a form reasonably acceptable to City's legal counsel. Promptly following the date the assignment becomes effective, Developer shall deliver to City a fully executed counterpart of the assignment and assumption agreement.

103.3 Pre-Approved Transfers. Notwithstanding any other provision of this Agreement to the contrary, City approval of a transfer or assignment of any Interest shall not be required in connection with any of the following:

(a) Subject to Developer submitting and obtaining City's approval of the assignment and assumption agreement referred to in Subsection 103.3(c) any transfer or assignment of any Interest to an Affiliate of Developer;

(b) The granting of temporary or permanent easements or permits to facilitate development of the Project Improvements;

(c) Any mortgage, deed of trust, or assignment for purposes of financing construction (including design, planning, permitting, remediation, site preparation and horizontal and vertical construction) of the Project Improvements;

(d) Leasing or rental of Affordable Units to Eligible Households at Affordable Rents;

(e) Subject to Developer submitting and obtaining City's approval of the assignment and assumption agreement referred to in Subsection 103.3(c), a transfer of Developers ownership interests into an entity in which Developer maintains full management and control of the day-to-day affairs of the transferee entity or entities, either directly or indirectly through another entity, and which transfer is completed only for the purpose of facilitating financing for the Project Improvements and

(f) The admission of limited partners to the Developer in connection with tax credit financing, and any subsequent transfer of such limited partnership interests, including any transfer of stock or equity in the limited partners that does not change management or operational control of the Project Improvements.

In the event of an assignment or transfer by Developer under Subsection 103.3(a), 103.3(c), or 103.3(e) not requiring City's prior approval, Developer nevertheless agrees that it shall give at least sixty (60) days prior written Notice to City of such assignment or transfer. In addition, City shall be entitled to review such documentation as may be reasonably required by the City Manager for the purpose of determining compliance of such assignment or transfer with the requirements of Subsection 103.3(a), 103.3(c) or 103.3(e).

103.4 Mortgagee Protection. Nothing in this Section 103 or elsewhere in this Agreement shall prohibit (i) the sale or transfer of all or any portion of the Site or Project Improvements through foreclosure of a mortgage or deed of trust permitted pursuant to Subsection 103.3(c), (ii) the transfer of all or any portion of the Site to the holder of such permitted mortgage or deed of trust by deed in lieu of foreclosure, or (iii) the transfer of all or any portion of

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the Site by any such holder subsequent to acquisition by foreclosure or deed in lieu, so long as such transfer complies with Section 311.

200. CITY DISPOSITION OF THE SITE TO DEVELOPER

201. Purchase and Sale of the Site. Developer shall purchase the Site from City and City shall sell the Site to Developer in accordance with and subject to all the terms, covenants, and conditions of this Agreement for the sum of One Dollar (\$1.00) (“**Purchase Price**”).

202. Escrow. Within the time set forth in the Schedule of Performance, City shall open escrow (“**Escrow**”) with Old Republic Title Company in Oakland “**Escrow Agent**” or “**Title Company**”), for Conveyance of the Site to Developer.

202.1 Closing Costs. Any and all usual fees, charges, and costs chargeable by Escrow Agent for the Escrow, including the costs of the premium for the Title Policy and any endorsements thereto, recording fees, and documentary transfer taxes, if any, due with respect to the Conveyance of the Site (collectively, the “**Closing Costs**”), shall be paid by Developer.

202.2 Supplemental Escrow Instructions. Prior to Conveyance of the Site to Developer, the parties shall submit appropriate supplemental escrow instructions to Escrow Agent for the close of the Escrow in accordance with the terms and conditions of this Agreement. The parties shall use reasonable good faith efforts to close Escrow in the shortest possible time. Insurance policies for fire or casualty are not to be transferred, and City will cancel its own policies, if any, after the Closing. All funds received in the Escrow shall be deposited in interest-bearing accounts for the benefit of the depositing party in any state or national bank doing business in the State of California. All disbursements shall be made by check or wire transfer from such account. The Closing shall take place when both City’s and Developer’s Conditions Precedent to Closing as set forth in Section 205 hereof have been satisfied or waived by the party benefitted by such condition. Escrow Agent is instructed to release City’s escrow closing and Developer’s escrow closing statements to the respective parties.

202.3 Authority of Escrow Agent. Escrow Agent is authorized to, and shall:

(a) **Title Policy.** Pay and charge Developer for the premium of the Owner’s Title Policy as set forth in Section 204 hereof and any amount necessary to place title in the condition necessary to satisfy Section 203 of this Agreement.

(b) **Endorsements.** Pay and charge Developer for any endorsements to the Title Policy that are requested by Developer as set forth in Section 204 hereof.

(c) **Fees.** Pay and charge Developer for the Closing Costs.

(d) **Purchase Price.** Deliver the Purchase Price to City.

(e) **Grant Deed.** Record the Grant Deed conveying fee title to the Site to Developer.

(f) **Memorandum of Agreement.** Record the Memorandum of Agreement against the Site.

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(g) **Affordable Housing Covenant.** Record the Affordable Housing Covenant against the Site.

(h) **Subordination Agreement – Affordable Units.** Record the Subordination Agreement – Affordable Units against the Site.

(i) **Disbursement.** Disburse funds and deliver and record the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant, Subordination Agreement – Affordable Units when both Developer's and City's Conditions Precedent to Closing have been fulfilled or waived in writing by Developer and/or City, as applicable.

(j) **Other Actions.** Do such other actions as necessary, including obtaining the Owner's Title Policy, to fulfill its obligations under this Agreement.

(k) **Additional Documents.** Direct City and Developer to execute and deliver any instrument, affidavit, and statement, and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act and regulations promulgated thereunder. City shall execute a Certificate of Non-Foreign Status by individual transferor and/or a Certification of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act as may be required by Escrow Agent, on the form to be supplied by Escrow Agent.

(l) **Closing Statement.** Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

202.4 Closing. The Conveyance of the Site by City to Developer shall take place within ten (10) days after the satisfaction or waiver, as applicable, of all of City's and Developer's Conditions Precedent to Closing as set forth in Section 205, below. "**Closing**" shall mean the time and day the Grant Deed is filed for record in the Official Records of Solano County. The "**Closing Date**" shall mean the date on which the Closing occurs. If, for any reason, Closing has not occurred prior to June 30, 2028 ("**Outside Date**"), this Agreement shall automatically terminate and, thereafter, neither party shall have any further rights or obligations hereunder except for those provisions which by their terms survive expiration or termination of this Agreement; however, the foregoing notwithstanding, if Developer has secured all Soft Sources of Funding and submitted an application for tax credit financing on or prior to June 30, 2028, the Outside Date shall automatically be extended to June 30, 2029. Notwithstanding Section 702 below, the Outside Date is not subject to extension for any enforced delays.

202.5 Closing Procedure. Escrow Agent shall close Escrow for the Site as follows:

(a) **Grant Deed.** Record the Grant Deed conveying fee title to the Site to Developer in the Official Records, with instructions to deliver the Grant Deed to Developer.

(b) **Memorandum of Agreement.** Record the Memorandum of Agreement against the Site in the Official Records immediately following recordation of the Grant Deed.

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(c) **Affordable Housing Covenant.** Record the Affordable Housing Covenant against the Site in the Official Records immediately following recordation of the Memorandum of Agreement.

(d) **Subordination Agreement – Affordable Units.** Record the Subordination Agreement – Affordable Units against the Site in the Official Records immediately following recordation of the Affordable Housing Covenant.

(e) **Purchase Price.** Deliver the Purchase Price to City.

(f) **Owner's Title Policy.** Instruct the Title Company to deliver the Owner's Title Policy to Developer.

(g) **Informational Reports.** File any informational reports required by Internal Revenue Code section 6045(e), as amended, and any other applicable requirements.

(h) **FIRPTA Certificate.** Deliver the FIRPTA Certificate, if any, to Developer.

(i) **Accounting.** Forward to both Developer and City a separate accounting of all funds received from and disbursed to each party and conformed copies of all executed and recorded or filed documents deposited into Escrow, with such recording and filing date and information endorsed thereon.

203. Review of Title. City shall cause Title Company to provide Developer with a standard preliminary title report for the Site (the "**Title Report**") together with legible copies of the documents underlying the exceptions set forth in the Title Report ("**Exceptions**") within the time set forth in the Schedule of Performance. Further, within the time set forth in the Schedule of Performance, Developer shall cause a survey of the Site to be prepared by a licensed civil engineer, certified to Title Company, Developer and City, sufficient to enable Title Company to issue the Owner's Title Policy at Closing. Developer shall have the right to reasonably approve or disapprove the Title Exceptions; provided, however, Developer hereby approves the following Exceptions which shall be referred to herein as the "**Pre-Approved Exceptions**":

- (a) The lien of any non-delinquent property taxes and assessments;
- (b) The conditions, including repurchase option, set forth in the Grant Deed;
- (c) The Memorandum of Agreement;
- (d) The Affordable Housing Covenant;
- (e) Matters created by, through, or under Developer, including, but not limited to, a parking easement deed, pedestrian promenade easement deed and any other easements or agreements required to be recorded against the Site in the Official Records prior to issuance of a certificate of occupancy for the Site Improvements; and

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(f) Such other exceptions to title as may hereafter be mutually approved by City and Developer.

Within the time set forth in the Schedule of Performance, Developer shall give written Notice to City, Title Company and Escrow Agent of Developer's approval or disapproval of any of the Exceptions (except the Pre-Approved Exceptions). Developer's failure to give written disapproval of the Exceptions within such time limit shall be deemed approval of the Exceptions. If Developer notifies City of its disapproval of any Exceptions, City shall have the right, but not the obligation, to cause any disapproved Exceptions to be removed within sixty (60) days after receiving written Notice of Developer's disapproval or provide assurances satisfactory to Developer that such Exceptions will be removed on or before the Closing. City's failure to notify Developer within such sixty (60) day period shall be deemed an election not to remove the disapproved Exceptions. City's election not to remove any disapproved Exceptions shall not be a Default under the provisions of this Agreement. If City cannot or does not elect to remove any of the disapproved Exceptions within such sixty (60) day period, Developer shall have ten (10) days after the expiration of such sixty (60) day period to either give City written Notice that Developer elects, in its sole discretion, to proceed with the purchase of the Site subject to the disapproved Exceptions or to give City written Notice that Developer elects to terminate this Agreement. The Exceptions to title approved by Developer as provided herein shall hereinafter be referred to as the "**Condition of Title.**" If any Exceptions other than Pre-Approved Exceptions are reported by the Title Company after Developer has approved the Condition of Title for the Site pursuant to the foregoing procedures, then any such new Exception shall be subject to the same procedures for review and approval set forth above for Exceptions constituting the Condition of Title. Notwithstanding the foregoing, upon the Date of Agreement until the Closing, the City shall not further encumber the Site with any new liens or encumbrances without the prior written consent of the Developer, which consent will not be unreasonably withheld.

204. Title Insurance. Concurrently with recordation of the Grant Deed conveying to Developer fee title to the Site, the Title Company shall issue to Developer an ALTA owner's policy of title insurance in an amount equal to the fair market value of the Site ("**Owner's Title Policy**"), together with such endorsements as are reasonably requested by Developer, insuring that title to Developer's interest in the Site acquired as of the date of issuance of the Owner's Title Policy is vested in Developer. Title Company shall provide City with a copy of the Owner's Title Policy. The premium for the Owner's Title Policy, plus any additional costs, including the cost of the survey, if prepared, and any endorsements requested by Developer shall be borne by Developer.

205. Conditions of Closing. The Closing is conditioned upon the satisfaction of the following terms and conditions within the times designated below:

205.1 City's Conditions of Closing. City's obligation to proceed with the Closing of the Conveyance of the Site is subject to the fulfillment or waiver by City of each and all of the conditions precedent described below ("**City's Conditions Precedent to Closing**"), which are solely for the benefit of City, and which shall be fulfilled or waived within the time periods provided for herein:

(a) **No Default.** Prior to the Closing, Developer shall not be in Default under the terms of this Agreement, no event shall have occurred which with the passage of time

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or giving of notice or both would constitute a Default hereunder, and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

(b) Execution of Documents. Developer shall have (i) executed and acknowledged the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant and any other documents required hereunder and delivered such documents into Escrow, and (ii) caused its lienholders to execute and acknowledge the Subordination Agreement – Affordable Units and deliver such documents into Escrow.

(c) Purchase Price. Developer shall have delivered the Purchase Price into Escrow.

(d) Costs of Closing. Developer shall have delivered the Closing Costs into Escrow.

(e) Evidence of Financing. City shall have approved Developer's Evidence of Financing as provided in Section 501.2 hereof.

(f) Insurance. Developer shall have provided proof of insurance as required by Section 306 hereof.

(g) General Contractor/Construction Contract. City shall have approved Developer's general contractor and the Construction Contract as provided in Section 305.1 hereof.

(h) Construction Loan Closing. Developer's construction loan(s) shall have closed or shall be ready to close concurrently with the Closing.

(i) Permits and Land Use Approvals. Developer shall have obtained all City and other governmental permits and land use approvals required pursuant to Section 302 hereof and all other entitlements for the Project Improvements, and the period for administrative and legal challenge to such land use approvals and entitlements shall have expired and City shall be ready to issue building permits for the construction of the Project Improvements upon the payment of the applicable fees by Developer.

(j) Payment of Development Fees. Developer shall have paid all or be current on payments to City of all development fees due City pursuant to the Project Approvals to enable Developer to commence development and construction of the Project Improvements unless City has otherwise agreed in writing to defer Developer's payment of development fees to the issuance of a certificate of occupancy for the Project.

205.2 Developer's Conditions of Closing. Developer's obligation to proceed with the Conveyance of the Site is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent described below ("**Developer's Conditions Precedent to Closing**"), which are solely for the benefit of Developer, and which shall be fulfilled or waived within the time periods provided for herein:

(a) No Default. Prior to the Closing, City shall not be in Default of any of its obligations under the terms of this Agreement, no event shall have occurred which with the

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passage of time or giving of notice or both would constitute a Default hereunder, and all representations and warranties of City contained herein shall be true and correct in all material respects.

(b) Evidence of Financing. City shall have approved Developer's Evidence of Financing as provided in Section 501.2 hereof.

(c) General Contractor/Construction Contract. City shall have approved Developer's general contractor and the Construction Contract as provided in Section 305.1 hereof.

(d) Execution of Documents. City shall have authorized, executed and acknowledged the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant, and any other documents required hereunder, and delivered such documents into Escrow.

(e) Review and Approval of Title. Developer shall have reviewed and approved the Condition of Title, as provided in Section 203 hereof.

(f) Developer's Approval Notice. Developer shall have delivered Developer's Approval Notice to the City in accordance with Section 208.1 hereof.

(g) Owner's Title Policy. The Title Company shall, upon payment of Title Company's regularly scheduled premium, be ready to issue the Owner's Title Policy upon recordation of the Grant Deed in accordance with Section 204 hereof.

(h) Subdivision Map. The Subdivision Map shall have been recorded.

206. Property Taxes and Assessments. Ad valorem taxes and assessments levied, assessed or imposed on the Site for any period prior to Conveyance of the Site to Developer shall be borne by City. Ad valorem taxes and assessments levied, assessed or imposed on the Site for the period after Conveyance thereof shall be borne by Developer.

207. Access to Site Prior to Conveyance of Site. Prior to Conveyance of the Site, City and Developer shall cooperate to enable representatives of Developer to obtain the right of access to all portions of the Site for the purpose of obtaining data and making surveys and tests, including the investigation of the soils and environmental condition of the Site. Developer agrees to notify City in writing at least twenty-four (24) hours prior to undertaking any studies or work upon the Site. City may require Developer to execute one or more right of entry agreements satisfactory to City's legal counsel prior to commencing such studies or work. Any preliminary work by Developer shall be undertaken only after securing all required insurance under this Agreement and any and all necessary permits from the appropriate governmental agencies. Developer shall indemnify, defend, protect and hold City and City Parties harmless from any claims, losses, liabilities and damages arising out of the activities of Developer as set forth in this Section 207. In addition, in the event that Developer causes any damage to any portion of the Site or the existing improvements thereon, Developer shall promptly restore the Site and existing improvements thereon as nearly as possible to the physical condition existing immediately prior to Developer's entry onto the Site.

208. Condition of the Site.

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208.1 Investigation of the Site. Prior to the Effective Date, Developer and Developer's authorized representatives were granted access to the Site to conduct reviews and assessments of the physical and environmental condition of the Site and the condition of the existing improvements. City may require Developer to execute a right of entry agreement satisfactory to City prior to entry onto the Property for such purpose and shall require Developer to provide proof of liability insurance acceptable to City. Developer's inspection, examination, survey and review of the Site shall be at Developer's sole expense. Developer shall provide City with copies of all reports and test results promptly following completion of such reports and testing, including any reports Developer received prior to entering into this Agreement. Developer hereby agrees to notify the City 5 working days in advance of its intention to enter the Site and will provide workplans, drawings, and descriptions of any intrusive sampling it intends to do. Developer must keep the Site in a safe condition during its entry. Developer shall repair, restore and return the Site to its condition immediately preceding Developer's entry thereon at Developer's sole expense. Developer will not permit any mechanics liens, stop notices or other liens or encumbrances to be placed against the Site prior to Close of Escrow. Without limiting any other indemnity provisions set forth in this Agreement, Developer shall indemnify, defend (with counsel approved by City) and hold City and City Parties harmless from and against all Claims resulting from or arising in connection with entry upon the Site by Developer or Developer's agents, employees, consultants, contractors or subcontractors pursuant to this Section 208.1 except to the extent arising from the gross negligence or willful misconduct of the City and City Parties. Developer's indemnification obligations set forth in this Section 208.1 shall survive the Close of Escrow and the termination of this Agreement.

Developer shall have until 5:00 p.m. (Pacific Standard Time) on the day that is one hundred twenty (120) calendar days after the Date of Agreement (the "**Contingency Date**") in which to approve or disapprove, in Developer's sole and absolute discretion, any and all inspections, investigations, tests and studies set forth in this Section 208.1 by providing written notice to City ("**Developer's Approval Notice**"). In the event Developer determines the Property is not acceptable to Developer for any reason or no reason, Developer shall have the right to terminate this Agreement by delivering written Notice to City of its election to terminate pursuant to this Section 2.4.5 on or before the Contingency Date ("**Developer's Disapproval Notice**"). In the event Developer has not provided City, by the Contingency Date, with Developer's Approval Notice or Developer's Disapproval Notice, this Agreement shall automatically be deemed to have been terminated effective as of the Contingency Date, and thereafter neither party shall have any further rights or obligations hereunder except for those obligations which by their express terms survive the termination of this Agreement. If Developer timely provides Developer's Disapproval Notice or if this Agreement is deemed to have been terminated as provided above, upon such termination, each party shall promptly execute and deliver to Escrow Agent such documents as Escrow Agent may reasonably require to evidence such termination. The 120-calendar day period within which Developer is to perform its due diligence investigation of the Property is referred to herein as the "**Due Diligence Period**".

Developer acknowledges that City makes no representations or warranties with respect to the accuracy, completeness, methodology of preparation or otherwise concerning the contents of any information or reports made available to Developer regarding any inspections, engineering, environmental or other matters pertaining to the Site. Developer acknowledges that City has requested that Developer inspect fully all portions of the Site and investigate all matters relevant thereto and to rely solely upon the results of Developer's own inspections or other

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information obtained or otherwise available to Developer, rather than any information that may have been provided by City to Developer.

208.2 No Further Warranties as to Site; Release of City. Notwithstanding any provision of this Agreement to the contrary, the Site shall be conveyed by City to Developer in its “AS IS” condition, “WITH ALL FAULTS,” with no warranty expressed or implied by City regarding the presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Site for the development purposes intended hereunder. To the extent authorized by contract or law, City shall assign to Developer all warranties and guaranties with respect to the Site, if any, that City may receive from the prior owner of the Site.

Developer hereby waives, releases and discharges forever City and City Parties from all present and future Claims, known and unknown, arising out of or in any way connected with the condition of the Site or the existing improvements thereon or any Hazardous Materials on, under or about the Site or existing improvements, however they came to be placed there.

Developer is aware of and familiar with the provisions of section 1542 of the California Civil Code which provides 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.”

As such relates to this Section 208.2, Developer hereby waives and relinquishes all rights and benefits which it may have under section 1542 of the California Civil Code.

Developer Initials

209. Hazardous Materials.

209.1 Duty to Prevent Hazardous Materials Contamination. After the Conveyance, Developer shall take all reasonably necessary precautions to prevent the release of any Hazardous Materials onto or from the Site. Such precautions shall include compliance with all Laws with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with all Laws with respect to the disclosure, storage, use, removal and disposal of Hazardous Materials.

209.2 Environmental Inquiries. If a release of any Hazardous Materials onto or from any portion of the Site occurs at any time after the Conveyance, Developer shall, as soon as possible after the release, furnish to City a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release.

209.3 Environmental Indemnification. From and after the Conveyance, Developer shall indemnify, defend and hold City and City Parties harmless from and against any Claims resulting from, arising out of, or based upon the release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such

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Hazardous Materials to or from, the Site in violation, or alleged violation, of any Laws, occurring from and after the Conveyance, except that the foregoing indemnity obligation shall not apply to any matters that arise out of the active negligence or willful misconduct of City and City Parties nor shall it apply to any matters arising from any conditions on the Site prior to the Conveyance. This indemnity shall include any damage, liability, fine, penalty, parallel indemnity, cost or expense arising from or out of any claim, action, suit or proceeding for bodily injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, trespass, contamination, leak, spill, release or other adverse effect on the environment.

210. City Consultant Cost Deposit. Developer acknowledges that the City shall expend resources negotiating, preparing, and implementing this Agreement and performance of the tasks required of City in the Schedule of Performance. Within the time established in the Schedule of Performance, Developer shall submit to the City an initial deposit of TWENTY-FIVE THOUSAND Dollars (\$25,000) (“**City Cost Deposit**”). The City Consultant Cost Deposit shall be placed in a separate City deposit account and any subsequent deposits shall be added to the total City Consultant Cost Deposit amount and may be used in accordance with this Agreement.

The City Cost Deposit shall be used by the City to pay for the City’s third party consultant costs and expenses incurred to negotiate and prepare this Agreement and negotiate and prepare agreements necessary to implement this Agreement (collectively, the “**Implementing Agreements**”). Such costs may include, but are not limited to, reasonable fees and services of third party consultants and attorneys, selected by the City in its sole discretion, relating to the negotiation and preparation of this Agreement and the negotiation and preparation of the Implementing Agreements (“**Consultant Costs**”). The total Consultant Costs Developer is required to pay under this Agreement shall not exceed \$150,000. Developer acknowledges that City’s Consultant Costs include its City attorney services provided by the firm of Burke Williams & Sorensen, LLP, who will assist City with the negotiation and preparation of this Agreement and the Implementing Agreements.

300. DEVELOPMENT OF SITE

301. Project Improvements. The “**Project Improvements**” to be constructed and developed by Developer on-Site and off-Site shall generally consist of and be defined as the following. Developer agrees that despite the fact that the Senior Center Site and the Scout Property are not contiguous the two properties shall be operated as one project and residents of the Scout Property shall have full use of and access to the same amenities and benefits as residents of the Senior Center Site.

301.1 Senior Center Site Improvements. The improvements on the Senior Center Site shall generally include:

(a) Two residential buildings containing a mix of studio and one-bedroom residential units with the exception of the one (1) two-bedroom Property Manager’s Unit, the residential units shall be restricted for rental to and occupancy by Low Income Households, Very Low Income Households, and Extremely Low Income Households, at an Affordable Rent, for a period of fifty five (55) years, as more particularly set forth in the Affordable Housing Covenant attached hereto as Attachment 5. The actual mix of size/type of residential unit and

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applicable affordability level shall be determined by the Parties no later than submittal of applications for the required land use entitlements in accordance with Section 302.1, and shall be reflected in the Affordable Housing Covenant recorded in the Official Records pursuant to Section 202.5. In no event shall the number of units constructed on the Senior Center Site and the Scout Property combined be less than 90 units.

(b) The demolition of the existing Senior Center on the Senior Center Site and the construction of a replacement Senior Center cold shell. The City shall own the Senior Center cold shell in fee, and Developer shall ensure the creation of a separate legal parcel for the Senior Center cold shell prior to or at Closing. Prior to Closing, the City and Developer shall mutually determine, subject to the Project's lender or investor requirements, whether to have the City retain its fee interest in the Retained Site throughout or to have it conveyed to Developer along with the Senior Center Site and then conveyed back to the City upon completion (but in any event, prior to the issuance of the Certificate of Completion). The replacement Senior Center cold shell shall be no less than 6,000 square feet and shall be located on the ground floor of Building A which will occupy the site of the existing Senior Center. Parking for the Senior Center shall be included in the parking required for the Project and the Senior Center shall have a separate exterior entrance. The replacement Senior Center shall be delivered to the City as a cold shell which shall include rough-in utilities for no less than the number of restrooms and stalls in the existing Senior Center, kitchen, and program space, exposed walls studs, unfinished floors, and an exposed ceiling. Electrical, mechanical, and plumbing systems will be stubbed out for future uses, including restrooms, an office, storage, program space, and a kitchen to accommodate the Meals on Wheels program. Within the time set forth in the Schedule of Performance Developer shall submit to the City a preliminary cost estimate reasonably acceptable to the City Manager for the completion of the improvements to the Senior Center necessary to obtain a certificate of occupancy. Once the cold shell of the Senior Center has been completed the City shall be provided with access to the Senior Center to complete the City's interior improvements. All exterior maintenance and repair of the building in which the Senior Center is located along with all related exterior improvements including pathways, parking, and landscaping shall be the responsibility of the Developer, provided, however, that City shall share in the ongoing maintenance costs for the shared amenities, as shall be further set forth in the REA (defined below). There shall be no restrictions on the City's use of the Senior Center, including the right of the City to lease or rent the Senior Center to third parties for private events that may have amplified music and that may serve alcohol. Notwithstanding the foregoing, the City agrees that its use of the Senior Center shall be subject to reasonable operation rules appropriate for a residential development, including but not limited to the requirement that the hours that the Senior Center is available for use will be the same as the hours of the adjacent public library. Prior to completion of the Senior Center, Developer and City shall enter into an operating and management agreement that will set forth the reasonable operation rules for the Senior Center, which rules shall be subject to the City's prior consent, which consent shall not be unreasonably withheld or delayed. The Senior Center shall be depicted on the Schematic Plans and Construction Plans and be subject to approval by the City Manager, which approval shall not be unreasonably withheld, including the location of the mechanical and plumbing systems. On or prior to Closing, City and Developer shall enter into a reciprocal easement agreement ("REA") that will address the shared access and use of the shared building systems and exterior amenities for the Senior Center Site, including but not limited to ensuring City has access for the drop off loop in front of the Senior Center and the City gym.

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(c) In addition to the number of parking spaces required for the Project, Developer shall also construct a minimum of 110 parking spaces in the surface parking lot and the a podium parking structure on the Senior Center Site. A portion of the surface parking spaces and the parking spaces in the podium parking structure shall all be accessible both by residents of the Project and the public, with the exact number of overall spaces, as well as the exact number of spaces open to the public, to be mutually determined no later than submittal of applications for the required land use entitlements in accordance with Section 302.1. The Subdivision Map will include the dedication of a public access and use easement, in an agreement to be mutually agreed upon by the City and Developer no later than submittal of development applications for the required land use entitlements in accordance with Section 302.1.

(d) Developer shall construct an approximately nineteen thousand (19,000) square foot tree-lined pedestrian promenade designed as a town square (“**Pedestrian Promenade**”). Developer and City shall mutually determine prior to completion of the Subdivision Map whether the City will own the Pedestrian Promenade or whether the Developer will retain ownership of the Pedestrian Promenade, in which case Developer shall dedicate a public access and use easement to the City pursuant to an easement agreement to be mutually agreed upon by the City and Developer. In the event that the Developer owns the Pedestrian Promenade, City acknowledges that Developer may establish a list of rules and requirements regarding the use of the Pedestrian Promenade, which shall be subject to the prior consent of the City, which consent shall not be unreasonably withheld or delayed provided such rules and requirements are reasonable and consistent with rules and requirements applicable to other publicly accessed privately owned areas similar to the Pedestrian Promenade and provided further that such rules and requirements do not prevent public access to the adjacent public facilities during times that they are open and operating, except in the case of emergencies or dangerous conditions.

(e) In the event that Development of the Project results in the demolition of the existing public restroom located on K Street adjacent to the Senior Center Site Developer shall construct a replacement public restroom of at least the same number of square feet and amenities as the existing public restroom being demolished.

(f) Developer shall allow for the installation of public art at a minimum of two locations on the Senior Center Site the locations and details of which to be determined through Design Review.

(g) Developer shall also dedicate an easement to the City for the drop off loop in front of the Senior Center and the City gym. Easements shall also be dedicated to the City for storm drainage, waste water, and water facilities as set forth on the Subdivision Map.

301.2 Scout Property Improvements. The improvements on the Scout Property shall generally include:

(a) One residential building containing a mix of one-bedroom units and studios, and one (1) two-bedroom unit, and surface parking spaces in accordance with the Project Approvals. With the exception of the one two-bedroom (1) Property Manager’s Unit, the residential units shall be restricted for rental to and occupancy by Low-Income Households, Very Low-Income Households, and Extremely Low-Income Households, at an affordable rent, for a period of fifty (55) years, as more particularly set forth in the Affordable Housing Covenant

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attached hereto as Attachment 5. In no event shall the number of units constructed on the Scout Property and Senior Center Site combined be less than 90 units.

(b) The City plans to install frontage improvements on 4th Street and L Street adjacent to the Scout Property for the benefit of the Project. These improvements generally include curbs, gutters, and sidewalks and will include areas for the installation of landscaping by the Developer. The Developer shall be responsible for the maintenance and repair of these improvements and the landscaping. Notwithstanding the foregoing, the City is under no obligation to the Developer to install these improvements.

301.3 Project Improvements. Developer shall develop and construct the Project Improvements in accordance with this Agreement, the Approvals and any Conditions of Approval required by City, the MMRPs as applicable, and those plans, drawings and documents (including Construction Drawings) submitted by Developer and approved by City, as applicable, all as provided herein. All work of Project Improvements shall be performed in a first-class, workmanlike manner by qualified, professional contractor(s) duly licensed in California and in good standing under applicable Laws.

302. Development Approvals.

302.1 Project Approvals. Developer acknowledges that the execution of this Agreement by the City does not constitute City's approval for the Project and does not relieve Developer from the obligation to apply for and to obtain from the City and all other agencies with jurisdiction over the Property, all necessary approvals, entitlements, and permits for the construction of the Project (including design review and approval of the Subdivision Map, and the approval of the Project after compliance with the California Environmental Quality Act ("CEQA") and if applicable, NEPA), nor does it limit in any manner the discretion of the City or any other agency in the approval process (the "**Project Approvals**"). Developer shall submit an application or applications to the City for the Project Approvals including all information required by the City's application checklist within the time set forth in the Schedule of Performance. Developer shall pay when due all customary and reasonable fees and charges in connection with the processing of all applicable permits and approvals. Developer shall not commence any grading, demolition, or construction work related to the Project prior to issuance of building permits required for such work. Developer shall, at its sole cost, construct and install the Project Improvements in accordance with the Project Approvals, the MMRP, and any Conditions of Approval imposed in connection with such Project Approvals, any Subsequent Project Approvals, and the Construction Drawings to be submitted by Developer and approved by City as provided in Section 304.2.

302.2 Subsequent Project Approvals. Certain land use approvals, entitlements, and permits, may be necessary or desirable for implementation of the Project Improvements after issuance of the Project Approvals ("**Subsequent Project Approvals**").

302.3 Subdivision Map. Within the time set forth in the Schedule of Performance Developer shall prepare a plat map and legal description of the portion of the Senior Center Site to be conveyed by the City to the Developer removing those portions of the Senior Center Site that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, (the "**Senior Center Conveyance Parcel**") and the Retained Site. Developer shall, at its sole cost and expense, be responsible for preparation of all required surveys and maps to create

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the Senior Center Conveyance Parcel and the Retained Site as a separate legal parcels. The boundaries of the Senior Center Conveyance Parcel and the Retained Site are subject to the review and approval of the City Manager which approval will not be unreasonably withheld.

302.4 Green-Building Measures. Developer shall design the Project to meet the minimum green building measures required by any funding sources.

302.5 Underground Utilities. Developer shall use best efforts to avoid the placement of any permanent structures over existing or new public utilities. If unavoidable, developer shall relocate the impacted utilities or provide protection measures for impacted utilities to the satisfaction of the City Engineer at their cost.

302.6 Other City Uses. Developer acknowledges and agrees that numerous City uses and facilities operate in the immediate vicinity of the Site. Developer further acknowledges and agrees that development and construction of the Project Improvements will be done in a manner to minimize impacts to the other City uses and facilities including, the City Library, City Hall, City Police Department, City gymnasium, public tennis courts, and bocce ball courts.

303. Schedule of Performance. Subject to the provisions of Section 702 hereof, Developer shall commence and complete construction of the Project Improvements and satisfy all other obligations and conditions of this Agreement with respect thereto within the times established in the “**Schedule of Performance**,” attached hereto as Attachment No. 4. “**Commence Construction**” or “**Commencement of Construction**” shall be deemed to have occurred when City has issued one or more permits for the construction of the Project Improvements and Developer has commenced excavation and grading on the Site in reliance on the permits issued; and such date shall be memorialized in writing by the parties. “**Complete Construction**” or “**Completion of Construction**” shall be deemed to have occurred when Developer has completed the work of the Project Improvements in conformity with this Agreement and therefore has the right to submit a request for a Certificate of Completion to City pursuant to Section 310. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between Developer and the City Manager, and the City Manager is authorized to make such revisions from time to time as he or she deems reasonably necessary. The foregoing notwithstanding, the City Manager has no authority to revise the Outside Date without the consent and approval of the City Council.

304. City’s Review of Project Plans and Revisions.

304.1 Schematic Plans. Within the time set forth in the Schedule of Performance, Developer shall prepare and submit to City schematic plans which illustrate the overall development concept of the Project Improvements (“**Schematic Plans**”). Prior to the submittal of the Schematic Plans to the Planning Commission for design review the City Manager shall review and approve the Schematic Plans which approval shall not be unreasonably withheld or delayed. Developer agrees to cooperate with the City, at no cost to the Developer, to include the City’s interior improvements to the Senior Center as part of the Project plans, provided, however, that Developer shall not be responsible for any costs related to the interior improvements to the Senior Center beyond Developer’s obligation to provide the cold shell in accordance with Section 301.1.

304.2 Construction Drawings and Related Documents. Within the time set forth in the Schedule of Performance, Developer shall prepare and submit to City detailed

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construction drawings and plans with respect to the Project Improvements, including a grading plan, which shall be consistent with the Schematic Plans and be prepared by a registered civil engineer and/or licensed architect (“**Construction Drawings**”).

304.3 Revisions. If, after approval of the Construction Drawings, Developer desires to propose any material revisions to such Construction Drawings, it shall submit such proposed changes to City, and shall also proceed in accordance with any and all Laws regarding such revisions. If the Construction Drawings, as modified by the proposed material change, generally and substantially conform to the Schematic Plans and the Project Improvements, the City Manager shall review the proposed material change and notify Developer in writing within fifteen (15) days after submission to City as to whether the proposed change is approved or disapproved; provided, however, that the City Manager is authorized to and shall approve changes to the approved Construction Drawings provided such changes do not reduce the number or size of the Affordable Units or significantly reduce the quality of materials to be used, as determined by the City Manager in his or her reasonable discretion. In the event that the City Manager does not provide the written response within fifteen (15) days, Developer shall notify the City in writing of the lack of response and the City Manager shall have an additional fifteen days to provide the response; if no response is provided within the additional fifteen (15) day period the change will be deemed approved. Any and all change orders or revisions required by City and its inspectors which are required under City Municipal Code and all other applicable codes (e.g., Building, Plumbing, Fire, Electrical, etc.) and Laws shall be included by Developer in its Construction Drawings and completed during construction of the Project Improvements.

304.4 Consultation and Coordination. During preparation of the Construction Drawings, City staff and Developer shall hold progress meetings on an as-needed basis to coordinate the preparation, submission, and review of such Construction Drawings. City staff and Developer shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any documents to City can receive timely and thorough consideration.

304.5 Defects in Plans. City shall not be responsible to Developer or to any third parties in any way for (i) any defects in any Schematic Plans or Construction Drawings, (ii) any defects in any of the Project Improvements, or (iii) any structural or other defects in any work done according to the approved Schematic Plans or Construction Drawings.

305. Construction Requirements.

305.1 General Contractor; Construction Contract. Within the time established in the Schedule of Performance, Developer shall notify City of the Developer’s selection of a general contractor and the final construction contract (“**Construction Contract**”), which shall be a guaranteed maximum price contract in a form acceptable to City. The City Manager shall approve or disapprove the proposed general contractor and the Construction Contract for the Project Improvements within the time established in the Schedule of Performance. The City Manager shall not withhold approval of a proposed general contractor who in the reasonable opinion of the City Manager is financially capable and has the qualifications and experience to perform its duties and obligation under a guaranteed maximum price contract acceptable to City. Developer agrees to cooperate with the City in the City’s use of Developer’s contractor to construct the City’s interior improvements and build out of the Senior Center.

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305.2 Costs of Development and Construction. All costs of preparing the Site, and planning, designing, permitting, and constructing the Project Improvements shall be borne solely by Developer.

305.3 Construction Oversight. City may retain a third party consultant to monitor the construction, and ensure that Developer maintains adequate funding for completion of the Project Improvements.

305.4 Construction Reports. Upon Commencement of Construction and until Completion of Construction, Developer shall submit to City written progress reports of the construction within five (5) days following City's request (not to be made more frequently than once a month). The progress reports shall be in such form and detail as may reasonably be required by City for proper review and oversight of the Project Improvements, and shall include a reasonable number of construction photographs taken since the last submitted progress report to visualize progress on the construction of the Project Improvements.

306. Insurance Requirements. Developer shall take out and maintain, and/or shall cause its contractor to take out and maintain, throughout the term of this Agreement, a commercial general liability policy in an amount not less than Two Million Dollars (\$2,000,000) combined single limit, including contractual liability together with a comprehensive automobile liability policy in the amount of One Million Dollars (\$1,000,000), combined single limit. Such policy or policies shall be written on an occurrence form. During any period in which construction is being undertaken, Developer shall maintain or shall cause its contractor to maintain builder's all-risk insurance in an amount not less than the full insurable value of the Project Improvements under construction on a replacement cost basis; and Developer, shall cause to be furnished to City evidence reasonably satisfactory to City that any contractor with whom Developer has contracted for the performance of work on the Site carries workers' compensation insurance as required by law. Companies writing the insurance required hereunder shall be approved to conduct business in the State of California. Developer's insurance shall be placed with insurers with a current A.M. Best's rating of no less than A-:VII. Developer shall furnish appropriate certificate(s) of insurance evidencing the insurance coverage required hereunder, and City and its officers, elected and appointed officials, and employees (collectively, "**City Parties**") shall be named as additional insured parties under the liability policies required hereunder. The certificate of insurance shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination (ten (10) days advance notice in the case of cancellation for nonpayment of premiums), if the insurance carrier provides such notices in its normal course of business. Coverage provided hereunder by Developer shall be primary insurance and shall not be contributing with any insurance, self-insurance or joint self-insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of City. The required certificate and endorsements shall be furnished by Developer to City within the time provided in the Schedule of Performance, and throughout the term of the Agreement within ten (10) business days following City's request therefor.

307. Rights of Access. During the period of construction of the Project Improvements, representatives of City shall have the reasonable right of access to the Site, without charges or fees, at normal construction hours for the purposes of inspecting the Site and Project Improvements

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being constructed thereon and ensuring compliance with this Agreement, so long as City and its representatives comply with all safety and security rules. City and its representatives shall, except in emergency situations, notify Developer at least twenty-four (24) hours in advance of exercising its rights pursuant to this Section 307. Nothing herein shall be deemed to limit the ability of City to conduct code enforcement and other administrative inspections of the Site and Project Improvements in accordance with applicable Laws.

308. Compliance with Laws.

308.1 Compliance with Laws. Developer shall carry out the construction of the Project Improvements and all other work pursuant to this Agreement in conformity with all applicable Laws. All such work shall be performed by one or more qualified contractors duly licensed in and in good standing under the laws of the State of California.

308.2 Prevailing Wage Requirements.

(a) Developer acknowledges and agrees that the Project Improvements may constitute “public works” as defined in Labor Code Section 1720 in that such Project Improvements may involve construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds under Labor Code Section 1720, *et seq.* (“**State Labor Code**”); however, depending on Project Financing, the Project Improvements may nevertheless be exempt from the requirements of the State Labor Code. Accordingly, in the event the Project Improvements to be constructed remain subject to the requirements of the State Labor Code, Developer shall comply with all applicable State Labor Code requirements, including provisions requiring the payment of prevailing wages in connection with construction of the Project Improvements. If applicable, Developer shall require its general contractor to post at the Site prevailing wage rates for all applicable trades and to submit copies of payroll records to Developer to ensure compliance with State Labor Code requirements pertaining to “public works.” Developer shall provide such payroll records to City promptly following City’s request therefor. Developer shall also include in the Construction Contract with its general contractor a provision, in a form reasonably acceptable to City, obligating such general contractor to require its contractors and/or subcontractors to comply with all State Labor Code requirements pertaining to “public works” (as defined in Labor Code section 1720). If Developer receives federal funding or assistance and the financing source requires compliance, Developer shall also comply with any applicable federal labor requirements, including the Davis-Bacon Act of 1931 as codified in 40 U.S.C §§ 3141 through 3148 (“**Davis-Bacon**”).

(b) If applicable, Developer shall defend (with counsel reasonably acceptable to City) City and City Parties from and against any and all Claims made by a third party or parties arising out of Developer’s obligation to comply with all State Labor Code and Davis-Bacon requirements pertaining to public works and payment of prevailing wages in connection with the Improvements, as required pursuant to the immediately preceding paragraph, and indemnify and hold harmless City and City Parties with respect to all final judgments or settlements in actions brought by any “contractor” in which City or City is (i) determined to be an “awarding body” and (ii) damages are awarded, pursuant to Labor Code sections 1726 or 1781 or applicable portions of Davis-Bacon. Developer’s indemnity obligations under this Section 308.2 shall survive expiration or termination of this Agreement and issuance of the Certificate of Completion.

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(c) Developer hereby waives, releases and discharges forever City and City Parties from any and all present and future Claims arising out of or in any way connected with Developer's obligation to comply with all State Labor Code and Davis-Bacon requirements pertaining to public works and payment of prevailing wages pursuant to the first paragraph of this Section 308.2.

309. Taxes and Assessments. During its period of ownership of the Site and the Project Improvements thereon, Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site and the Project Improvements thereon, or any portion thereof, subject to Developer's right to contest in good faith any such taxes or seek a welfare exemption. Developer shall remove or have removed any levy or attachment made on the Site or the Project Improvements thereon or any part thereof; or shall assure the satisfaction thereof within thirty (30) days following the date of attachment or levy.

310. Certificate of Completion. Following Developer's satisfactory completion of the work of Project Improvements, as evidenced by City's issuance of a certificate of occupancy, Developer may request that City issue the Certificate of Completion with respect to such work. The "**Certificate of Completion**" shall be substantially in the form of Attachment No. 8 attached hereto. City shall not unreasonably withhold the Certificate of Completion. If City refuses or fails to furnish the Certificate of Completion, City shall, within ten (10) business days after Developer's written request therefor, provide Developer with a written statement of the reasons City refused or failed to furnish the Certificate of Completion. The statement shall also contain City's opinion of the actions Developer must take to obtain the Certificate of Completion. The Certificate of Completion shall be a conclusive determination of Developer's satisfactory completion of the work of Project Improvements. Any party then owning or thereafter purchasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, or acquisition) incur any obligation or liability under this Agreement, except for those continuing covenants as set forth in the Affordable Housing Covenant. Notwithstanding anything in this Agreement to the contrary, the Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to the holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the construction of the Project Improvements, or any part thereof; nor shall the Certificate of Completion constitute a notice of completion as referred to in section 3093 of the California Civil Code.

311. Mortgage and Deed of Trust Financing.

311.1 No Encumbrances Except Mortgages and Deeds of Trust. Prior to issuance of the Certificate of Completion, mortgages, deeds of trust and any other financing instrument will be permitted on the Site only for the purpose of financing construction and development of the Project Improvements (including but not limited to, design, planning, permitting, remediation, site preparation and horizontal and vertical construction). Following issuance of the Certificate of Completion, mortgages, deeds of trust and any other financing instrument shall be permitted for any purpose, and City shall have no approval or disapproval rights with respect thereto. The words "mortgage" and "deed of trust" as used herein shall include sale and lease-back financing.

311.2 Holder Not Obligated to Construct Project Improvements. The holder of any mortgage or deed of trust on the Site shall not be obligated by the provisions of this

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Agreement to construct or complete the Project Improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to or be construed to permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon other than those uses and Project Improvements provided for or authorized by this Agreement, the Affordable Housing Covenant, and the Project Approvals.

311.3 Notice of Default to Mortgagee or Deed of Trust Holders; Right to Cure. With respect to any mortgage, deed of trust or other financing instrument granted by Developer on the Site, whenever City shall deliver any Notice or demand to Developer with respect to any breach or default by Developer hereunder, City shall at the same time deliver to each holder of record of any mortgage, deed of trust or other financing instrument on the Site a copy of such Notice or demand. No Notice of default shall be effective as to the holder unless such Notice is given. Each such holder shall (insofar as the rights of City are concerned) have the right, at its option, within one hundred twenty (120) 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 mortgage debt and the lien of its mortgage. In the event possession of the Site (or portion thereof) is required to effectuate such cure or remedy, the holder shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within one hundred twenty (120) days, diligently pursues such proceedings to completion, and, after obtaining possession, diligently completes such cure or remedy (the foregoing time periods being subject to extension during the period that such holder is precluded from taking or pursuing any such action as a consequence of any bankruptcy stay or other court order). Nothing in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project Improvements (beyond the extent necessary to conserve or protect such Project Improvements or construction already made) without first having expressly assumed Developer's obligations to City by written agreement reasonably satisfactory to City. Any such holder properly completing such Project Improvements shall be entitled, upon compliance with the requirements of Section 310, to a Certificate of Completion.

400. COVENANTS, RESTRICTIONS AND AGREEMENTS

401. Use Covenants. The Site shall be used as a senior citizen housing development as defined by Section 51.3 of the California Civil Code for a period of fifty-five (55) years. All uses on the Site shall conform to the Project Approvals, this Agreement, and the Affordable Housing Covenant.

402. Affordable Units. As more particularly set forth in the Affordable Housing Covenant, all of the residential units constructed on the Site (with the exception of one (1) unit on the Senior Center Site and one (1) unit on the Scout Property which shall be reserved for the Property Manager [as defined in the Affordable Housing Covenant]) shall be rented to and occupied by an Eligible Household at an Affordable Rent (each, an “**Affordable Unit**” and, collectively, the “**Affordable Units**”).

402.1 Rent and Income Restrictions. As more particularly set forth in the Affordable Housing Covenant, the Affordable Units shall be rented to and occupied by Eligible Households at Affordable Rents for a period of fifty-five (55) years.

402.2 General Requirements for Affordable Units. As more particularly set forth in the Affordable Housing Covenant, the affordable units on the Site shall be made available

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only to Extremely Low-, Very Low-, and Low-Income Households. The two-bedroom unit on the Senior Center Site and the two-bedroom unit on the Scout Property shall be rented to and occupied by the Property Manager (the “**Property Manager Unit**”), who is required to reside on the premises pursuant to Section 402.5 below, however, the rental of the Property Manager Unit to the Property Manager shall not be subject to the income and rent restrictions set forth herein. The Parties acknowledge and agree that the final unit mix and count will be mutually agreed upon prior to submission of an application for the Project Approvals, and in no event shall be less than 90 units.

402.3 Marketing of Affordable Units. Developer shall be responsible for marketing the Affordable Units, as more particularly set forth in the Affordable Housing Covenant. Within the time established in the Schedule of Performance, Developer shall submit to City a residential marketing plan, in a form acceptable to City and consistent with the provisions of the Affordable Housing Covenant (“**Marketing Plan**”). The City Manager shall approve or disapprove the proposed Marketing Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Marketing Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Marketing Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Marketing Plan initially submitted to City.

402.4 Supportive Services to Residents. Developer shall be responsible for ensuring that adequate supportive services are provided to residents of the Affordable Units, as more particularly set forth in the Affordable Housing Covenant. Within the time established in the Schedule of Performance, Developer shall submit to City a residential supportive services plan, in a form acceptable to City and consistent with the provisions of the Affordable Housing Covenant (“**Supportive Services Plan**”). The City Manager shall approve or disapprove the proposed Supportive Services Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Supportive Services Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Supportive Services Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Supportive Services Plan initially submitted to City.

402.5 On-Site Property Manager; Site Management Plan. Developer shall be responsible for ensuring that a person with the requisite skill and experience managing multi-family residential developments (“**Property Manager**”) lives on the Senior Center Site and the Scout Property in the Property Manager Units. Further, Developer shall be responsible for addressing in detail their plan to provide for the maintenance, repair (both routine and extraordinary), and rehabilitation of the Affordable Units, replacement of capital items in the Affordable Units, and implementation of the requirements of the Conditions of Approval (“**Site Management Plan**”). Within the time established in the Schedule of Performance, Developer shall submit to City a Site Management Plan. The City Manager shall approve or disapprove the proposed Site Management Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Site Management Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Site

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Management Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Site Management Plan initially submitted to City.

403. Maintenance Covenants. Developer hereby covenants and agrees that it shall be responsible for ensuring that the Project Improvements on the Site are maintained in a clean and orderly condition and in good physical and aesthetic condition and repair, consistent with other affordable, first class senior living facilities, and that the Site shall be kept in a decent, safe, sanitary, habitable and tenantable living condition, free from any accumulation of debris, waste, unmaintained landscaping, graffiti, disrepair, abandoned vehicles and appliances, and illegal activity, and in conformity with all applicable federal, state and local laws, ordinances, codes and regulations, including the Conditions of Approval. Separate metering of utilities for the Senior Center will be provided, including metering for water and electric.

404. Nondiscrimination Covenants.

404.1 No Discrimination. Developer covenants by and for itself and any successors in interest 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, any improvements thereon, or any part thereof, nor shall the grantee or any person claiming under or through Developer, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants and all other provisions of this Section 404 shall run with the land and shall be contained in each subsequent grant deed conveying title to the Site, any improvements thereon, or any part thereof, to any subsequent owner, and the provisions of this Section 404 shall survive expiration or other termination of this Agreement.

404.2 Nonsegregation Clause. Developer shall refrain from restricting the rental, sale or lease of the Site or any improvements thereon, or any part thereof, 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 deeds, leases or contracts for the rental, sale or lease of the Site or any improvements thereon, or any part thereof, made by Developer after the Date of Agreement, shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds:

“(1) The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there will 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

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the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

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

(b) In leases:

“(1) 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 premises 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 premises herein leased.

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

(c) In contracts:

“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

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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 premises, nor shall the transferee 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, subtenants, sublessees or vendees of the premises.”

405. Affordable Housing Covenant. Developer’s covenants with respect to the development, use, maintenance, and operation of the Site shall be more particularly set forth in the Affordable Housing Covenant, which shall run with the land and be binding on Developer and its successors and assigns for the period of time set forth therein.

405.1 Within the time provided in the Schedule of Performance, the Affordable Housing Agreement and Declaration of Restrictive Covenants (“**Affordable Housing Covenant**”), attached hereto as Attachment No. 5, shall be executed and acknowledged by City and Developer, subject to non-substantive formatting and/or clerical modifications, and delivered into Escrow for recordation in the Official Records. Further, prior to Closing, City and Developer shall agree on the allocation of studio and one-bedroom units to Extremely Low Income Households, Very Low Income Households, Low-Income Households as provided in Section 2.2 of the Affordable Housing Covenant, which allocation shall otherwise conform with the requirements of California Government Code Section 54221(f)(1)(F). The Affordable Housing Covenant shall be recorded against the Site immediately following delivery and recordation of the Grant Deed and shall have priority over the liens of all mortgages, deeds of trust and other liens (other than the lien for current, unpaid property taxes). If requested by the City, Developer shall cause any or all such mortgagees, deed of trust beneficiaries and other lien holders to execute and deliver to Escrow for recordation in the Official Records a subordination agreement in a form reasonably acceptable to City unconditionally subordinating such mortgages, deeds of trust and other liens to the Affordable Housing Covenant (“**Subordination Agreement – Affordable Units**”).

406. Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction. City is deemed the beneficiary of the terms and provisions of this Agreement, including the Affordable Housing Covenant, and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement, including the Affordable Housing Covenant, and the covenants running with the land have been provided, without regard to whether City has been, remains or is an owner of any land or interest therein in the Site. City shall have the right, if this Agreement, Affordable Housing Covenant, or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement, Affordable Housing Covenant and covenants may be entitled. The covenants contained in this Agreement shall remain in effect until the issuance of the Certificate of Completion, at which time they will all automatically terminate, except for the following:

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(a) The covenants pertaining to the Affordable Units, use and maintenance of the Site and all Project Improvements thereon, as set forth in Sections 401, 402, 403, and 405, shall remain in effect for the time period set forth in the Affordable Housing Covenant.

(b) The covenants against discrimination, as set forth in Section 404 shall remain in effect in perpetuity.

500. FINANCIAL PROVISIONS

501. Preliminary Financing Report, Evidence of Financing, and Loan Closings.

501.1 Preliminary Financing Report. Within the time established in the Schedule of Performance, Developer shall prepare and submit to City its plan for debt financing that, coupled with the proposed equity financing, are sufficient to undertake the design and construction of the Project Improvements in accordance with this Agreement (“**Preliminary Financing Report**”). The Preliminary Financing Report shall include the following: (i) cost of design and construction of Project Improvements; (ii) initial amount to make up the annual capital reserve fund for replacement of Project Improvements; and (iii) private and public sources of funding for the design and construction of the Project Improvements, amount of funding to be provided by each source, and phasing and timing of funding applications, award and disbursements, including the sources of public funding (the “**Public Financing**”).

501.2 Evidence of Financing. Within the time established in the Schedule of Performance, Developer shall obtain and submit to City written evidence satisfactory to City that Developer has submitted applications for Public Financing and obtained firm commitments for debt and equity financing necessary to undertake the design and construction of the Project Improvements in accordance with this Agreement (“**Evidence of Financing**”). The Evidence of Financing shall include the following: (i) cost of construction of Project Improvements based on 100% Construction Drawings and a guaranteed maximum price Construction Contract; (ii) initial amount to make up the annual capital reserve fund for replacement of Project Improvements; and (iii) written evidence of private funding and Public Financing committed to the Project Improvements, amount of funding to be provided by each source, and phasing and timing of funding disbursements.

501.3 City Approval. The City Manager shall approve or disapprove the Preliminary Financing Report and Evidence of Financing within the times established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager shall reasonably disapprove any portion of the Preliminary Financing Report or Evidence of Financing, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval and, thereafter, Developer shall utilize good faith, diligent efforts to promptly obtain and submit to City a new Preliminary Financing Report or Evidence of Financing, as applicable. The City Manager shall approve or disapprove such new Preliminary Financing Report or Evidence of Financing in the same manner and within the same times established in the Schedule of Performance for the approval or disapproval of the Preliminary Financing Report or Evidence of Financing, as applicable, as initially submitted to City. In the event City disapproves Developer’s Preliminary Financing Report or Evidence of Financing or Developer fails to obtain and deliver the Preliminary Financing Report or Evidence of Financing to City as provided above,

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then either party may terminate this Agreement as provided herein by Notice to the other party and, thereafter, neither party shall have any rights or obligations hereunder.

501.4 Loan Closings, Financing, and Notice of Default to City. Prior to or simultaneous with the Closing, Developer's construction loan(s) shall have closed and all other financing shall have been provided or committed to Developer. Developer shall ensure that any and all parties, public and private, providing financing for design and development of the Project Improvements shall provide written notice to City (concurrent with notice to Developer) of any breach or default of Developer under their respective financing documents. Notwithstanding anything to the contrary contained herein, if required by Developer's limited partner, the City may allow Closing to occur prior to construction finance closing, provided that City determines that all conditions to closing such financing are satisfied.

600. DEFAULTS AND REMEDIES

601. Default; Notice and Cure. Subject to permitted extensions of time as provided in Section 702, failure by either party to perform any action or covenant required by this Agreement within the time periods provided herein following Notice and expiration of any applicable cure period, shall constitute a "**Default**" under this Agreement. A party claiming a Default shall give written Notice of Default to the other party specifying the Default complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against the other party, and the other party shall not be in Default if (a) in the case of a monetary Default, such party cures the monetary Default within ten (10) business days following receipt of such Notice of Default, or (b) in the case of a non-monetary Default, such party cures, corrects or remedies the non-monetary Default within thirty (30) days following receipt of such Notice of Default, or if the non-monetary Default cannot reasonably be cured within such thirty (30) day period, said party commences to cure the non-monetary Default within said thirty (30) day period and thereafter completes such cure, correction or remedy with diligence.

602. Institution of Legal Actions. Except as otherwise specifically provided herein, upon the occurrence of a Default, and the expiration of the applicable cure period pursuant to Section 601 above, the non-defaulting party shall have the right, in addition to any other rights or remedies, to institute any action at law or in equity to cure, correct, prevent or remedy any Default, or to 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 Sonoma, State of California, or in the Federal District Court for the Northern District of the State of California. Notwithstanding anything herein to the contrary, a party's right to recover damages in the event of a Default by the other party shall be limited to recovery of actual damages and neither party shall have the right to recover any special, punitive, or consequential damages.

603. Termination. This Agreement may be terminated: (i) if there is an uncured Default, by written Notice from the party not in Default, (ii) if there is a failure of an express condition (which is not waived by the party whom the condition benefits) by Notice from the party whom the condition benefits, or (iii) in accordance with the provisions of Sections 202.4, 203, or 501.3 hereof. In the event that this Agreement is terminated due to an uncured default of City, City shall return any unexpended City Consultant Cost deposit to Developer.

604. Assignment of Developer Plans. In addition to City's other rights and remedies hereunder, upon City's request which may be made at any time following occurrence of a

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Developer Default, Developer shall assign and deliver to City, without charge, all plans, drawings, designs, surveys, soils reports, engineering reports, environmental studies, specifications and cost estimates prepared by or on behalf of Developer in connection with the Project Approvals and Project Improvements (collectively, “**Developer Plans**”). Developer hereby agrees that City may use any such Developer Plans in connection with any similar project or other development of the Site. City shall have the right to work with all architects, engineers and other consultants retained by Developer or with whom Developer has worked in connection with the Project Approvals and Project Improvements, and Developer shall not discourage any such architects, engineers and other consultants from working with City. Developer’s obligations under this Section 604 shall survive expiration or termination of this Agreement.

605. Option to Repurchase. City shall have the additional right, at its option, to repurchase the Site or any portion thereof with all improvements thereon, if after Conveyance of the Site and prior to the issuance of the Certificate of Completion for the Project Improvements:

(a) **Failure to Commence Construction.** Developer fails to Commence Construction of the Project Improvements on the Site within the time set forth in the Schedule of Performance; or

(b) **Failure to Diligently Prosecute Construction to Completion.** Once Developer Commences Construction, Developer fails diligently to prosecute construction of the Project Improvements to completion within the time set forth in the Schedule of Performance; or

(c) **Abandonment.** Developer abandons or substantially suspends construction of the Project Improvements for a period of three (3) months after Developer’s receipt of written Notice of such abandonment or suspension from City; or

(d) **Unauthorized Sale or Transfer.** Developer directly or indirectly, voluntarily or involuntarily sells, assigns, transfers, disposes of or further encumbers or agrees to sell, assign, transfer, dispose of or further encumber or suffer to exist any other lien against all or any portion of or any interest in the Site which claim of lien is maintained for a period of thirty (30) calendar days without discharge, satisfaction thereof, or release through posting of bonds or other forms of security (“**Transfer**”), except in accordance with the terms of this Agreement. For the purpose of this provision, Transfer shall include, in addition to the common and ordinary meaning of those terms and without limiting their generality, transfers made to subsidiary or affiliated entities, and any “change in ownership” as that term is used from time to time in California real property taxation law, except as allowed under this Agreement.

This option shall be subordinate and subject to and be limited by and shall not defeat, render invalid or limit: (i) any mortgage, deed of trust or other security instrument permitted by this Agreement; or (ii) 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 option to purchase with respect to the Site or any portion thereof, City shall pay to Developer in cash an amount equal to: (i) the Purchase Price originally paid by Developer; plus (ii) the out-of-pocket costs actually incurred by Developer for labor and materials for the construction and design of the Project Improvements or that portion thereof existing at the time City exercises the option to purchase (exclusive of amounts financed by third parties, if any, to the

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extent such financing obligations are assumed by City); less (iii) any net gains or net income withdrawn or made by Developer from the Site or such portion thereof or the Project Improvements thereon; and less (iv) the amount of unpaid liens on the Site or such portion thereof which City agrees to pay or assume, and any unpaid current or past-due installments of taxes or assessments against the Site or such portion thereof which City agrees to pay or assume (collectively, the “**Option Price**”).

In order to exercise such purchase option, City shall give Developer Notice of such exercise and Developer shall, within forty-five (45) days after Developer’s receipt of such Notice, provide City with a detailed accounting of all of Developer’s costs incurred as provided above, supported by executed contracts, invoices and evidence of payment. City, within thirty (30) days thereafter, shall pay to Developer in cash (through an escrow if desired by City) all sums owing pursuant to this Section 605, and Developer shall thereupon execute and deliver to City a grant deed transferring to City all of Developer’s interest in the Site or portion thereof and improvements thereon, as applicable. The foregoing notwithstanding, the City shall have the continuing right to conduct an audit of all of Developer’s records pertaining to the Option Price for a period of two (2) years following Developer’s execution and delivery to City of the grant deed; accordingly, Developer shall maintain accurate books and records supporting its costs of design, construction and installation of the Project Improvements until the earlier of (i) issuance of a Certificate of Completion for the Project Improvements or (ii) two years following termination of this Agreement.

606. Acceptance of Service of Process. If any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Manager or in such other manner as may be provided by law. If any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon Andrea Osgood, Chief of Real Estate Development and Executive Vice President⁷, or in such other manner as may be provided by law.

607. Rights and Remedies Are Cumulative. Except as otherwise expressly provided herein, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other party, except as otherwise expressly provided herein.

608. Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

700. GENERAL PROVISIONS

701. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice (“**Notice**”) which either party may desire to give to the other party under this Agreement must be in writing and may be given by any commercially acceptable means, including via facsimile or via overnight courier, to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice. Any Notice shall be deemed received on the date of delivery if delivered

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by hand or by first class mail, postage prepaid or if sent via nationally recognized overnight courier; and upon receipt of verification of transmission if sent via facsimile (provided a copy is sent the same day via first-class mail). Notices sent by a party's attorney on behalf of such party shall be deemed given by such party.

To City: City of Benicia
250 East L Street
Benicia, CA 94510
Attention: Mario Giuliani, City Manager
Telephone: (707)746-4289
Email: MGiuliani@ci.benicia.ca.us

With copies to: Burke, Williams & Sorensen, LLP
181 Third Street, Suite 200
San Rafael, CA 94901
Attention: Benjamin Stock, City Attorney
Telephone: (415) 755-2605
Email: bstock@bwslaw.com

To Developer: Eden Benicia Senior Investors LP

c/o Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: Tami Strauss
Telephone: (510) 931-8210
Email: tami.strauss@edenhousing.org

With a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Evan Gross, Esq.
Telephone: (415)781-6600 ext. 6
Email: egross@gubbbbarshay.com

702. Enforced Delay; Extension of Times of Performance. Subject to the limitations set forth below, performance by either party hereunder shall not be deemed to be in Default, and all performance and other dates specified in this Agreement, excepting the Outside Date, shall be extended, where delays or failures to timely perform are due to: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation; unusually severe weather; acts or omissions of the other party; or acts or failures to act on the part of City or any other public or governmental City or entity (other than the acts or failures to act of City which shall not excuse performance by City). An extension of time for any such cause shall be for the period of the enforced delay provided the party claiming such extension shall provide Notice to the other party within thirty (30) days of commencement of such cause and the total time period of such enforced delays shall in no event exceed eighteen (18) months. Any party claiming such extension shall notify the other(s) promptly after becoming aware of the existence of any

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event or condition giving rise to such claim. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Developer, excepting the Outside Date. Developer expressly agrees that adverse changes in economic conditions, either of Developer specifically or the economy generally, changes in market conditions or demand, and/or Developer's inability to obtain financing or other lack of funding to complete the Project Improvements shall not constitute grounds of enforced delay pursuant to this Section 702. Developer expressly assumes the risk of such adverse economic or market changes and/or inability to obtain financing, whether or not foreseeable as of the Date of Agreement.

703. Successors and Assigns. Subject to the prohibitions set forth in Section 103 against changes in the ownership, management and control of Developer prior to issuance of the Certificate of Completion, all of the terms, covenants and conditions of this Agreement shall be binding upon Developer, and Developer's permitted successors and assigns. Whenever the term "**Developer**" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

704. Recordation of Memorandum of Agreement. Within the time provided in the Schedule of Performance, the "**Memorandum of Agreement**" shall be executed and acknowledged by City and Developer in the form attached as Attachment No. 3, and delivered into Escrow for recordation against the Site in the Official Records upon Closing.

705. Relationship Between City and Developer. It is hereby acknowledged that the relationship between City and Developer is not that of a partnership or joint venture and that City and Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein or in the Attachments hereto, City shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Site or the Project Improvements.

706. City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by City, the City Manager is authorized to act on behalf of City unless specifically provided otherwise or the context would require otherwise. The City Manager is hereby authorized to extend times for performance set forth in the Schedule of Performance and to make other minor changes to this Agreement, and to negotiate and execute such other agreements as are called for in this Agreement, or that are necessary to carry out the intent of this Agreement. Except as otherwise provided in this Agreement, whenever City is required to provide an approval or disapproval, City shall give such approval or disapproval within fifteen (15) business days of a Developer's request. If City fails to give such approval or disapproval with such 15-business day period, the request shall be deemed disapproved. Notwithstanding anything herein to the contrary, any change or modification to the Outside Date shall require an amendment to this Agreement approved by the City Council, which approval may be granted or denied in its sole discretion.

707. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

708. Integration and Incorporation by Reference. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or

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written, are merged in this Agreement and shall be of no further force or effect. All Attachments to this Agreement are incorporated herein by reference.

709. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. Reference to section numbers is to sections in this Agreement, unless expressly stated otherwise.

710. Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word “including” shall be construed as if followed by the words “without limitation.” This Agreement shall be interpreted as though prepared jointly by City and Developer.

711. Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

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

713. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day and including the last day, unless the last day is a holiday, Saturday or Sunday, or a Friday on which City offices are closed, and then that day is also excluded. The term “holiday” shall mean all holidays recognized by the City. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

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

715. Time of Essence. Time is of the essence with respect to the performance by City and Developer of each and every obligation and condition of this Agreement.

716. Cooperation. Each party agrees to cooperate with the other in this transaction and, in that regard, shall execute any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement. In addition, Developer agrees to cooperate with City in obtaining grant funding for the build out of the Senior Center on the Retained Site.

717. Conflicts of Interest. No member, official or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or

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employee participate in any decision relating to the Agreement which 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.

718. Time for Acceptance of Agreement by City. This Agreement, when approved by the City Council, executed by Developer and delivered to City, must be authorized, executed and delivered by City on or before forty-five (45) days after signing and delivery of this Agreement by Developer or this Agreement shall be void, except to the extent that Developer shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement by City.

719. Developer's Indemnity. Developer shall defend (with counsel reasonably acceptable to City), indemnify, assume all responsibility for, and hold City and City Parties harmless from all Claims arising directly or indirectly from: (a) any of Developer's acts, omissions, negligence or willful misconduct, whether such acts, omissions, negligence or willful misconduct be by Developer or by anyone directly or indirectly employed or contracted with by Developer, and (b) performance of the work of Project Improvements (including design, development, and construction); whether such Claims shall accrue or be discovered before or after expiration or termination of this Agreement or issuance of a Certificate of Completion. Developer's indemnity obligations under this Section 719 shall not extend to Claims to the extent occasioned by the active negligence or willful misconduct of City Parties nor shall it extend to Claims solely related to the design, development or construction of the build out of the Senior Center. Notwithstanding the foregoing sentence, Developer shall be required to defend City and City Parties against any and all Claims, regardless of the extent to which (or if at all) City or any City Parties is or are alleged or found to have partially caused or contributed to the Claim. The provisions of this Section 719 shall survive termination or expiration of this Agreement or any portion thereof.

720. Nonliability of Officials and Employees of City. No member, official or employee of City or City Parties shall be personally liable to Developer, or any successor in interest, in the event of any Default or breach by City or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement. Developer hereby waives and releases any claim it may have against the members, officials or employees of City with respect to any Default or breach by City or for any amount which may become due to Developer or its successor, or on any obligations under the terms of this Agreement.

721. Assignment by City. City may assign or transfer any of its rights or obligations under this Agreement with the approval of Developer, which approval shall not be unreasonably withheld; provided, however, that City may assign or transfer any of its interests hereunder to any entity controlled by City at any time without the consent of Developer.

722. Applicable Law. The laws of the State of California, without regard to conflict of laws principles, shall govern the interpretation and enforcement of this Agreement.

723. Cooperation in the Event of Legal Challenge. City and Developer, at Developer's sole cost and expense, shall cooperate in the event of any court action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, and City shall, upon request of Developer, appear in the action and defend its decision. To the extent Developer determines to contest or defend such litigation challenges or requests that City cooperate in those defense efforts, Developer shall reimburse City, within ten (10) days

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following City's written demand therefor, which may be made from time to time during the course of such litigation, all costs incurred by City in connection with the litigation challenge, including City's administrative, legal and court costs. If Developer opts to defend any such legal challenge, Developer shall indemnify, defend, and hold harmless City and City Parties from and against any Claims assessed or awarded against City or City by way of judgment, settlement, or stipulation. Nothing herein shall authorize Developer to settle such legal challenge on terms that would constitute an amendment or modification of the Project Approvals or this Agreement, unless such amendment or modification is approved by the City Council in accordance with applicable legal requirements, and City reserves its full legislative discretion with respect thereto.

[Signatures follow on next page]

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IN WITNESS WHEREOF, City and Developer have executed this Agreement on the respective dates set forth below.

Dated: _____
[Date of Agreement]

CITY:

CITY OF BENICIA,
a California municipal corporation

By: _____
Mario Giuliani, City Manager

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

Dated: _____

DEVELOPER:

Eden Benicia Senior Investors LP,
a California limited partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

By: EDEN HOUSING, INC.,
a California non-profit public benefit corporation, its
sole member/manager

By:

Andrea Osgood, Chief of Real Estate Development
and Executive Vice President

Exhibit A

Attachment No. 1-A

Site Map

Exhibit A

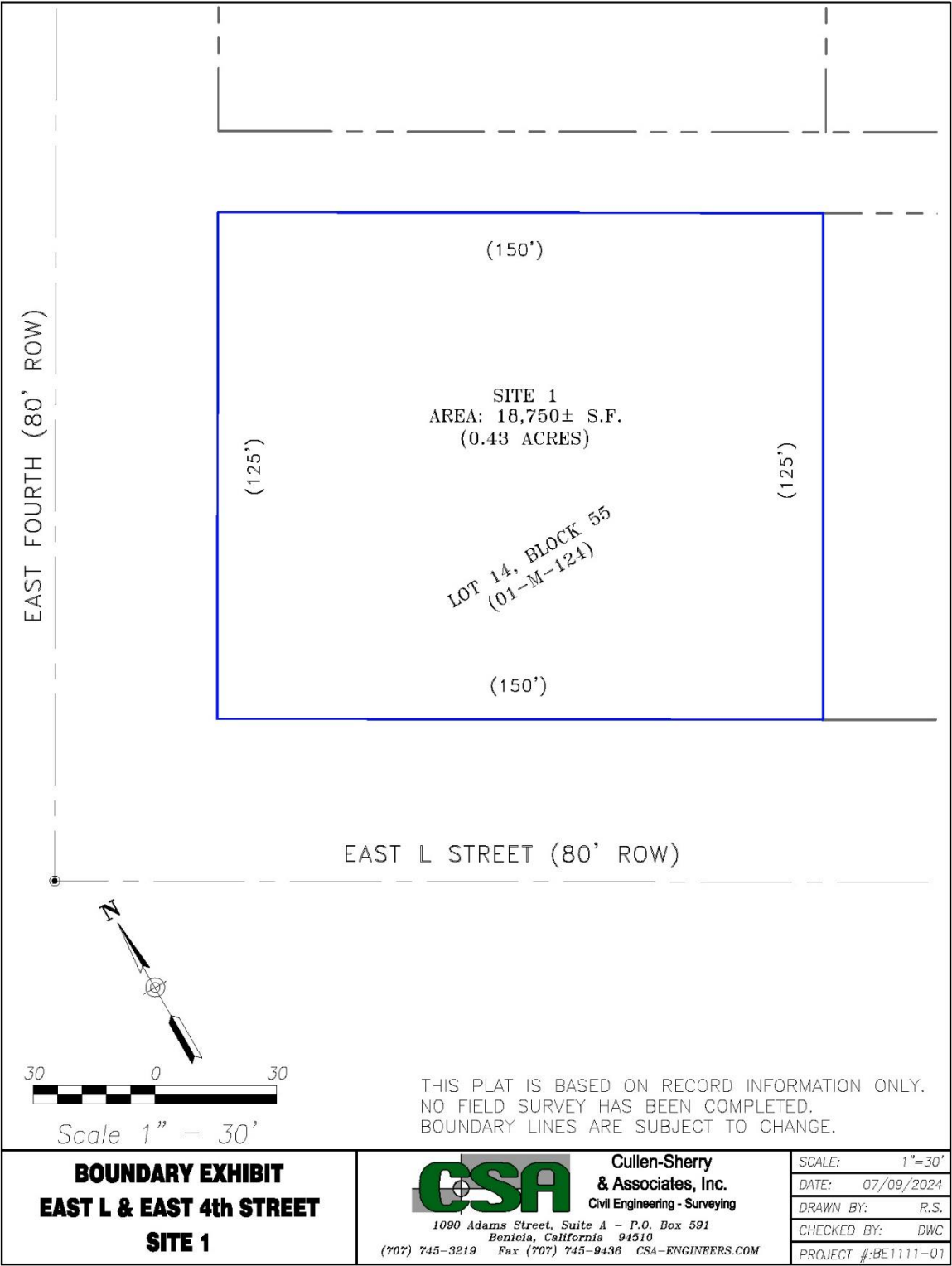


Exhibit A

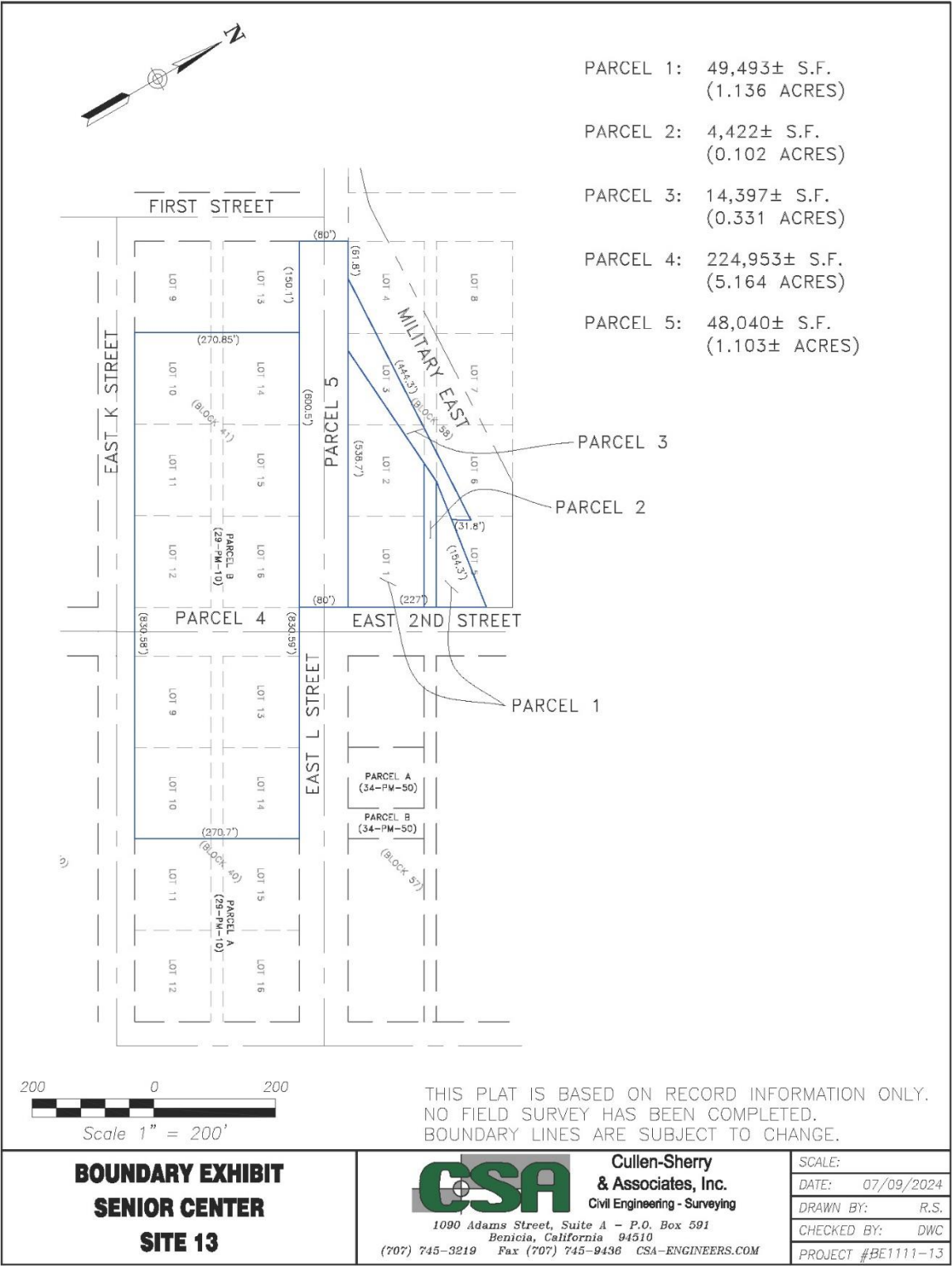


Exhibit A

Attachment No. 1-B

Senior Center Conveyance Parcel Site Map

[to be inserted after recordation of the Subdivision Map]

Exhibit A

Attachment No. 2-A

Senior Center Site Legal Description

Parcel 1:

Lots 1, 2, 3, 5 and 6 in Block 58 of the City of Benicia, according to the Official Map thereof made by Benjamin W. Barlow, filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124. Excepting therefrom that portion of said Lots 2, 3, 5 and 6 which are located within the parcel of land conveyed to the State of California for State Highway purposes by Grant Deed from Dominican College of San Rafael, recorded August 23, 1943, in Book 289, Page 166 of Official Records, as Instrument No. 6981.

Parcel 2:

A portion of the alley in the Southerly half of Block 58, beginning at the most Easterly corner of Lot 1, Block 58, as shown on the Official Map of the City of Benicia, filed April 21, 1874 in Book 1 of Maps, Page 124, Solano County Records; thence North 59°59'41" West, 236.62 feet to a point on the Southerly line of the parcel of land granted to the State of California by the Dominican College of San Rafael and recorded August 23, 1943 in Book 289, Page 166, Official Records of Solano County; thence North 85°48'33" East, 33.90 feet; thence South 81°39'58" East, 2.57 feet; thence South 59°59'41" West, 20.00 feet to the point of beginning.

Parcel 3:

A portion of Military East Right of Way beginning at a point on the Northeasterly line of "L" Street that bears North 50°59'41" West, 520.55 feet from the most Southerly corner of Lot 1, Block 58, all as shown on the Official Map of the City of Benicia, filed April 21, 1874 in Book 1 of maps, page 124, Solano County Records, said point is also being on the Southerly line of the parcel of land granted to the State of California by the Dominican College of San Rafael and recorded August 23, 1943 in Book 289, Page 166, Official Records of Solano County; thence North 59° 59' 41" West, 118.17 feet; thence South 87°00'00" East, 444.30 feet; thence South 30°58'53" West, 31.88 feet; thence North 81°39'58" West, 70.07 feet; thence South 85°48'33" West 256.31 feet to the point of beginning.

Exhibit A

Attachment No. 2-B

Scout Property Legal Description

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Exhibit A

Attachment No. 2-C

Senior Center Conveyance Parcel Legal Description

[to be inserted after recordation of the Subdivision Map]

Exhibit A

Attachment No. 2-D

Retained Site Legal Description

[to be inserted after recordation of the Subdivision Map]

Exhibit A

Attachment No. 3

Memorandum of Agreement

Exhibit A

RECORDING	REQUESTED	BY	)
AND WHEN RECORDED MAIL TO:			)
			)
City of Benicia			)
250 East L Street			)
Benicia, CA 95510			)
Attention: City Clerk			)
			)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT

THIS MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT (“**Memorandum of Agreement**”), dated for identification purposes as of _____, 20__, is entered into by and between the CITY OF BENICIA, a California municipal corporation (“**City**”), and EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”).

1. **Disposition and Development Agreement.** City and Developer are parties to a Disposition and Development Agreement dated for identification purposes as of _____, 20__ (“**DDA**”), for: (i) City’s disposition and sale to Developer of certain real property located in the City of Benicia, County of Solano, State of California, legally described in Exhibit A-1 and Exhibit A-2 attached hereto and incorporated herein by this reference (collectively the “**Site**”); (ii) the development by Developer of a senior citizen housing development as defined by Section 51.3 of the California Civil Code with not less than ninety (90) below market rate residential units, with a mix of predominantly one-bedroom units and a small percentage of studios, with ancillary parking and community amenities (“**Affordable Units**”), which shall be available for rental to households of extremely low, very low, and low income, on the Site (“**Project**”); and (iii) Developer to use, operate and maintain the Project, including the Affordable Units, in accordance with the terms of the DDA and the Affordable Housing Covenants as defined in the DDA. The DDA is available for public inspection and copying at the office of the City Clerk, City of Benicia, City Hall, 250 East L Street, Benicia, California 95510. All of the terms, conditions, provisions and covenants of the DDA are incorporated in this Memorandum of Agreement by reference as though written out at length herein, and the DDA and this Memorandum of Agreement shall be deemed to constitute a single instrument or document. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the DDA.

2. **Purpose of Memorandum of Agreement.** This Memorandum of Agreement is prepared for recordation purposes only, and in no way modifies the terms, conditions, provisions and covenants of the DDA. In the event of any inconsistency between the terms, conditions, provisions and covenants of this Memorandum of Agreement and the DDA, the terms, conditions, provisions and covenants of the DDA shall prevail.

The parties have executed this Memorandum of Agreement on the dates specified immediately adjacent to their respective signatures.

Exhibit A

Dated: _____, 20__ CITY:

CITY OF BENICIA,
a California municipal corporation

By: _____
Mario Giuliani, City Manager
[notary acknowledgment required]

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

Dated: _____, 20__

DEVELOPER:

EDEN BENICIA SENIOR INVESTORS LP, a
California limited partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

By: EDEN HOUSING, INC.,
a California non-profit public benefit
corporation, its sole member/manager

By: _____
Andrea Osgood, Chief of Real Estate
Development and Executive Vice President
[notary acknowledgment required]

Exhibit A

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the subdivision map)

Exhibit A

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Exhibit A

Attachment No. 4

Schedule of Performance

Action	Date
1. Open Escrow. City shall open Escrow with the Escrow Agent. (§ 202)	Within 15 calendar days from the Date of Agreement.
2. Title Report. City shall cause the Title Company to deliver the Title Report to Developer and City. (§ 203)	Within 30 calendar days following the date of Escrow is opened.
3. Survey. Developer shall cause a survey of the Site to be prepared by a licensed civil engineer, certified to Title Company, Developer and City, sufficient to enable Title Company to issue the Owner's Title Policy at Closing City. (§ 203)	Within 60 calendar days prior to Closing
4. Approval/Disapproval of Title Exceptions. Developer shall provide Notice to City of Developer's approval or disapproval of Title Exceptions. (§ 203)	Within 60 days following receipt of Title Report.
5. City Consultant Cost Deposit. Developer shall deposit the City Cost Deposit in an initial amount of \$25,000 with City. (§ 210)	Within 30 calendar days following the Date of Agreement.
6. Approval of Preliminary Cost Estimate – Senior Center. City shall review the Preliminary Cost Estimate for the Senior Center and provide Developer with notice of approval or disapproval. (§ 301.1(b))	Within 15 business days following submittal.
7. Pre-Application for Project Approvals. Developer shall submit a pre-application or applications to the City for the Project Approvals. (§302.1)	Within 60 calendar days of the Date of Agreement.

Exhibit A

Action	Date
8. Development Application for Project Approvals. Developer shall submit an application or applications to the City for the Project Approvals including all information required by the City's application checklist. . (§302.1)	On or before June 30, 2026.
9. Project Approvals. Developer shall receive all Project Approvals	Prior to the Closing.
10. Subdivision Map. Developer shall prepare a plat map and legal description of the portion of the Senior Center Site to be conveyed by the City to the Developer removing those portions of the Senior Center Site that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, (the "Senior Center Conveyance Parcel") and the Retained Site. (§302.3)	On or before June 30, 2026.
11. Preliminary Financing Report. Developer shall submit the Preliminary Financing Report to City. (§501.1)	Within 30 days of obtaining Project Approvals.
12. Evidence of Financing. Developer shall provide City with evidence of submittal of applications for Project Financing as identified in approved Preliminary Financing Report. (§ 501.2)	Within 10 calendar days following submittal of application by Developer pursuant to NOFA issued by federal, state or local agencies.
13. Approval of Evidence of Financing. City shall review the Evidence of Financing for the Project and provide Developer with notice of approval or disapproval. (§ 501.3)	Within 15 business days following submittal by Developer.

Exhibit A

Action	Date
14. General Contractor and Construction Contract. Developer shall notify City of the Developer's selection of the selected general contractor and the Construction Contract to be entered into for the work of the Project Improvements. (§ 305.1)	On or prior to 2 months before Closing.
15. Approval/Disapproval of General Contractor and Construction Contract. The City Manager shall approve or disapprove the proposed general contractor and the Construction Contract for the Project Improvements. (§ 305.1)	Within 15 business days following submittal by Developer.
16. Submittal of Marketing Plan. Developer shall submit the Marketing Plan to City for review and approval. (§ 402.3)	On or prior to 6 months before Completion.
17. Approval of Marketing Plan. City shall review the Marketing Plan and provide Developer with notice of approval or disapproval. (§ 402.3)	Within 45 calendar days following submittal.
18. Submittal of Supportive Services Plan. Developer shall submit the Supportive Services Plan to City for review and approval. (§ 402.4)	On or prior to 6 months before Completion.
19. Approval of Supportive Services Plan. City shall review the Supportive Services Plan and provide Developer with notice of approval or disapproval. (§ 402.4)	Within 45 calendar days following submittal.
20. Submittal of Site Management Plan. Developer shall submit a Site Management Plan to City for review and approval. (§ 402.5)	On or prior to 6 months before Completion.

Exhibit A

Action	Date
21. Approval of Site Management Plan. City shall review the Site Management Plan and provide Developer with notice of approval or disapproval. (§ 402.5)	Within 45 calendar days following submittal.
22. Insurance. Developer shall furnish evidence of required insurance to City. (§ 306)	Prior to Closing.
23. Closing of Construction Loan(s). Developer's construction loan(s) for the Project shall have closed. (§ 501.4)	Prior to or simultaneous with Closing.
24. Closing. City and Developer shall close Escrow and Convey the Site to Developer. (§202.4)	Within 10 days following satisfaction of all of City's and Developer's Conditions Precedent to Closing, but in no event later than Outside Date.
25. Record Subdivision Map. Developer shall secure City approval and execution of the Subdivision Map for the Site (both as owner of fee title to Site and in its regulatory capacity) and deliver to Escrow for recording in Official Records. (§302.3)	Prior to or concurrent with Closing.
26. Record Grant Deed. City and Developer shall execute the Grant Deed for the Site and deliver to Escrow for recording in Official Records. (§205.1(b), §205.2(b))	Concurrent with Closing.
27. Record Memorandum of Agreement for Site. City and Developer shall execute the Memorandum of Agreement for the Site and provide to Escrow for recording in Official Records. (§205.1(b), §205.2(b), §704)	Concurrent with Closing.

Exhibit A

Action	Date
28. Record Affordable Housing Covenant. City and Developer shall execute the Affordable Housing Covenant and provide to Escrow for recording against the Site in Official Records. (§205.1(b), §205.2(b), §405)	Concurrent with Closing.
29. Record Subordination Agreement – Affordable Units. Developer shall cause all lienholders to execute, acknowledge and provide a Subordination Agreement – Affordable Units to Escrow for recording against the Site in Official Records. (§205.1(b), §405.1)	Concurrent with Closing.
30. Reciprocal Easement Agreement. City and Developer shall execute the Reciprocal Easement Agreement and provide to Escrow for recording against the Site. (§301.1 (b))	Concurrent with Closing.
31. Deposit Purchase Price and Closing Costs. Developer shall have delivered the Purchase Price and Closing Costs into Escrow. (§ 205.1 (c) and (d))	Concurrent with Closing.
32. Schematic Plans. Developer shall submit schematic plans to the City for approval/disapproval. (§ 304.1)	Within 60 days of Project Approvals.
33. Approval of Schematic Plans. The City Manager shall approve or disapprove the Schematic Plans. (§ 304.1)	Within 15 business days following submittal by Developer.
34. Construction Drawings. Developer shall prepare and submit to City the Construction Drawings. (§ 304.2)	Concurrent with submittal of application for building permit for the Project Improvements.
35. Approval of Construction Drawings. The City Manager shall approve or disapprove the Construction Drawings. (§ 304.2)	Within 15 business days following submittal by Developer.

Exhibit A

Action	Date
36. Commencement of Construction. Developer shall Commence Construction of the Project Improvements. (§ 303)	Within 30 calendar days following Closing.
37. Completion of Construction. Developer shall complete construction of the Project Improvements. (§ 303)	Within thirty (30) months following Commencement of Construction.
38. Certificate of Completion. City shall provide a Certificate of Completion to Developer. (§ 310)	Within 30 days following satisfactory completion of the Project Improvements, as evidenced by City's issuance of a certificate of occupancy, and Developer's request therefor.

Exhibit A

Attachment No. 5

Affordable Housing Agreement & Declaration of Restrictive Covenants

Exhibit A

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Benicia
250 East L. Street
Benicia, CA 94510
Attention: City Clerk

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

AFFORDABLE SENIOR HOUSING REGULATORY AGREEMENT

AND

DECLARATION OF RESTRICTIVE COVENANTS

by and between

THE CITY OF BENICIA

and

EDEN BENICIA SENIOR INVESTORS LP

Exhibit A

This Affordable Senior Housing Regulatory Agreement and Declaration of Restrictive Covenants (this “**Agreement**”) is entered into effective as of _____, 20__ (the “**Effective Date**”) by and between the City of Benicia, a municipal corporation, (the “**City**”) and Eden Benicia Senior Investors LP, a California limited partnership (the “**Developer**”). The City and the Developer are referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. Developer is the owner of the real property located in the City of Benicia, California, more particularly described in Exhibit A attached hereto (the “**Property**”).

B. Developer acquired the Property from the City pursuant to that certain Disposition and Development Agreement (“**DDA**”) dated _____, 2026, as evidenced by that certain Memorandum of Disposition and Development Agreement, dated _____, 2026, and recorded in the official records of the Office of the County Clerk-Recorder of the County of Solano (“**Official Records**”), on _____, 2026, at Instrument No. _____.

C. Pursuant to the DDA, Developer is required to develop and construct a senior citizen housing development, as defined by Section 51.3 of the California Civil Code, on the Property which will include: (i) a total of _____ () rental units in three (3) buildings comprised of _____ () one-bedroom units, _____ () studio units all available at an Affordable Rent to Eligible Households, as defined herein (the “**Restricted Units**”), and two (2) 2-bedroom manager’s units (the “**Managers’ Units**”); (ii) a cold shell build out of approximately _____ square feet of space to be retained by the City; (iii) a pedestrian promenade open space of no less than _____ square feet; and (iv) a new podium and surface parking (collectively, the “**Project**”).

D. The DDA provides that the Restricted Units will be required to be available to Eligible Households at Affordable Rents in accordance with this Agreement for a period of fifty-five (55) years.

E. The purpose of this Agreement is to satisfy the requirements of the DDA and thereby regulate and restrict the occupancy and rents of the Restricted Units for the benefit of the Project. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Developer and Developer’s successors and assigns for the full Term of this Agreement.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1.1 Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

“**Actual household size**” means the actual number of persons in the applicable household.

“**Adjusted for family size appropriate for the unit**” shall have the meaning set forth in Section 50052.5 of the California Health and Safety Code, as amended or any successor statute thereto, subject to the application of federal rules and regulations, if applicable, to financing sources for all or a portion of the Project, including applicable federal and TCAC regulations.

Exhibit A

“Affordable Housing Monitoring Fee” is defined in Section 3.5.

“Affordable Housing Occupancy Date” means the date of issuance by City of a certificate of occupancy for the final Restricted Unit constructed on the Property, to be memorialized by the Parties through execution and recordation of the Certificate of Completion in accordance with Section 310 of the DDA.

“Affordable Rent” shall mean rental rates no greater than ELI Rent for Extremely Low Income Households, VLI Rent for Very Low Income Households, and LI Rent for Low Income Households, adjusted for family size appropriate to the Restricted Unit, determined in accordance with California Health and Safety Code Section 50053, as amended, or any successor statute thereto; provided, however, in no event shall the maximum affordable rent be higher than 20 percent below the median market rate rents for the neighborhood in which the Site is located; and provided, further that for lower income households with gross incomes that exceed 60 percent of the Area Median Income adjusted for family size appropriate to the unit, rental rates may be established at a level not to exceed 30 percent of Gross Income of the household. Notwithstanding the foregoing, if applicable to financing sources for all or a portion of the Project, during the fifteen (15) year tax credit compliance period under Internal Revenue Code Section 42, or such longer term of the regulatory agreement to be executed by TCAC and Developer and recorded against the applicable portion of the Project, the City hereby permits Developer to use the occupancy standards and rent levels required by TCAC.

“Agreement” means this Affordable Senior Housing Regulatory Agreement And Declaration of Restrictive Covenant between City and Developer.

“Annual Report” is defined in Section 3.2.

“Area Median Income” or “AMI” means the median household income (adjusted for family size appropriate to the unit) of the Metropolitan Statistical Area in which Solano County is located, as established pursuant to California Health and Safety Code Sections 50093 and 50105, as amended or any successor statute thereto, or as applicable, the median income for Solano County, California, adjusted for family size appropriate to the unit, as determined by TCAC regulations.

“City” means the City of Benicia, a California municipal corporation.

“City Documents” means this Agreement, the DDA, the Project Approvals, and the Certificate of Completion (as defined in the DDA).

“City’s Authorized Representative” means the City Manager of the City of Benicia.

“Claims” is defined in Section 2.6.

“DDA” is defined in Recital B.

“Developer” means Eden Benicia Senior Investors LP, a California limited partnership.

Exhibit A

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

“Eligible Household” means an Extremely Low-Income Household, Very Low-Income Household, or Low-Income Household qualified in accordance with the terms of this Agreement and Sections 50106, 50105 and 50079.5, respectively, of the California Health and Safety Code, as amended or any successor statute thereto, and which includes at least one member who is age 55 or older or other qualifying resident as defined in California Civil Code Section 51.3.

“ELI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times thirty percent (30%) of AMI, adjusted for family size appropriate to the unit.

“Event of Default” is defined in Section 9.1.

“Extremely Low-Income Household” is defined in Section 50106 of the California Health and Safety Code, as amended or any successor statute thereto.

“Gross Income” shall mean the combined, gross, pre-tax income of all adult occupants of the applicant household, as calculated under Section 6914 of Title 25 of the California Code of Regulations as such section may be revised from time to time.

“HCD” means the State of California, Department of Housing and Community Development.

“HUD” means the U.S. Department of Housing and Urban Development.

“Indemnitees” is defined in Section 2.6.

“LI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times eighty percent (80%) of AMI, adjusted for family size appropriate to the unit.

“Low-Income Household” is defined in Section 50079.5 of the California Health and Safety Code, as amended, or any successor statute thereto.

“Managers’ Units” is defined in Recital C.

“Marketing and Management Plan” is defined in Section 6.5.

“Official Records” as defined in Recital B means the Official Records of the Office of the County Clerk-Recorder of the County of Solano, California.

“Partnership Agreement” is defined in Section 8.2.

“Party” and **“Parties”** are defined in the introductory paragraph of this Agreement.

“Project” is defined in Recital C.

“Project Approvals” is defined in Section 302.1 of the DDA.

Exhibit A

“Project Improvements” is defined in Section 301 of the DDA and means the improvements to be designed and constructed by Developer on the Property in accordance with the Project Approvals for the Project.

“Property” is defined in Recital A and more particularly described in the legal description attached hereto as Exhibit A.

“Property Manager” is defined in Section 6.7.

“Relocation Laws” is defined in Section 2.6.

“Rent” means the monthly payment for the use and occupancy of a Restricted Unit.

“Restricted Units” is defined in Recital C and means a residential dwelling unit that is reserved for occupancy at an Affordable Rent for Eligible Households of specified household income levels as set forth in Section 2.2 and Exhibit B.

“Schedule of Performance” means the Schedule of Performance attached as Attachment No. 4 to the DDA, setting out the dates and/or time periods by which certain obligations of City and Developer set forth in the DDA must be accomplished.

“Site Management Plan” is defined in Section 6.7.

“Supportive Services Plan” is defined in Section 6.6.

“Tenant Data” is defined in Section 3.4.3.

“Term” or **“Term of this Agreement”** is defined in Section 4.1.

“Third Party Lender” is defined in Section 8.6.

“Transfer” is defined in Section 8.1.

“Very Low-Income Household” is defined in Section 50105 of the California Health and Safety Code, as amended or any successor statute thereto.

“VLI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times fifty percent (50%) of AMI, adjusted for family size appropriate to the unit.

2. Use and Affordability Restrictions. Developer hereby covenants and agrees, for itself and its successors and assigns, that throughout the Term of this Agreement, the Property shall be used solely for residential occupancy by Eligible Households in compliance with the DDA and the requirements set forth in this Agreement. Developer represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement, and Developer covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of City. For the purpose of this Section, other regulatory and similar agreements

Exhibit A

that impose more stringent affordability and occupancy restrictions on the Project than those set forth in this Agreement shall not be deemed to be inconsistent with this Agreement.

2.1 Senior Housing. Developer has elected to operate the Project as a senior citizen housing development and as such to require all dwelling units in the Project except for the managers' units to be occupied or held available for occupancy by households that include "elderly" or "senior" residents in accordance with applicable law. To the extent applicable, the Project will be operated at all times in accordance with (a) the Unruh Act, including without limitation California Civil Code Sections 51.2, 51.3, and 51.4; (b) the federal Fair Housing Act, 42 U.S.C. Section 3607(b) and 24 CFR 100.304; (c) the California Fair Employment and Housing Act, Government Code Section 12900 *et seq.*, and (d) all other applicable laws and regulations. Developer shall develop and implement appropriate age verification procedures to ensure compliance with this Section 2.1, and shall provide City with a copy of such verification procedures. To the greatest extent permitted by law, Developer will indemnify, defend, and hold the Indemnitees harmless from all Claims arising out of Developer's failure to comply with applicable legal requirements related to housing for seniors. Developer's indemnification obligations set forth in this Section (i) shall survive the expiration or earlier termination of this Agreement, and (ii) shall not extend to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees.

2.2 Affordability, Occupancy and Rent Requirements. Throughout the Term of this Agreement (as defined in Section 4.1 below): (i) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Extremely Low-Income Households at Rent not to exceed ELI Rent; (ii) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Very Low-Income Households at Rent not to exceed VLI Rent; and (iii) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Low Income Households at Rent not to exceed LI Rent.

The Restricted Units shall be allocated among unit size and affordability categories as set forth in Exhibit B. Further, as previously noted herein, two (2) of the residential units in the Project shall be Managers' Units that will not be subject to rent or occupancy restrictions. Notwithstanding the foregoing, no tenant qualifying for a Restricted Unit shall be denied continued occupancy of a Restricted Unit in the Project because, after admission, such tenant's household income increases to exceed the qualifying limit for such Restricted Unit. A household which at initial occupancy qualifies in a particular income category shall be treated as continuing to be of such income category so long as the household's Gross Income does not exceed one hundred forty percent (140%) of the applicable income limit. In the event the household Gross Income of a household that qualified at the applicable income limit at initial occupancy exceeds the applicable income limit for a Restricted Unit, that Restricted Unit will continue to be considered as satisfying the applicable income limit.

In the event that recertification of tenant incomes indicates that the number of Restricted Units actually occupied by Eligible Households falls below the number reserved for each income group as specified in Exhibit B, Developer shall rectify the condition by renting the next available dwelling unit(s) in the Project to Eligible Household(s) until the required income mix is achieved.

Exhibit A

If upon income recertification, a tenant household's income exceeds eighty percent (80%) of AMI Adjusted for Actual Household Size, Developer may increase the Rent for such tenant to the lowest of the following: (a) one twelfth of thirty percent (30%) of the tenant household's Gross Income, (b) the maximum rent allowed under any affordability restrictions imposed by other Project lenders, and (c) if the Project has been allocated low-income housing tax credits, the maximum rent allowed by Section 42 of the Internal Revenue Code of 1986, as amended.

In the event of inconsistency between the provisions of this Section 2.2 and the rules applicable to the Project in connection with low-income housing tax credits, the rules applicable to low-income housing tax credits shall prevail.

2.3 Managers' Units. Two (2) dwelling units in the Project may be used as resident Managers' Units, shall not be considered as Restricted Units, and shall be exempt from the occupancy and rent restrictions set forth in this Agreement.

2.4 No Condominium Conversion. Developer shall not convert the Restricted Units in the Project to condominium or cooperative ownership or sell condominium or cooperative rights to the Restricted Units in the Project during the Term of this Agreement.

2.5 Non-Discrimination; Compliance with Fair Housing Laws.

2.5.1 Fair Housing; Section 8 Vouchers. Developer shall comply with state and federal fair housing laws in the marketing and rental of the units in the Project. Developer shall accept as tenants, on the same basis as all other prospective tenants, seniors who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing Section 8 program or any successor thereto.

2.5.2 Non-Discrimination. Developer shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, gender identity, disability, marital status, ancestry, age (other than as permitted pursuant to this Agreement and applicable law pertaining to housing for seniors), or national origin of any person. Developer covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition 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 rental, sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property or part thereof, nor shall Developer or any person claiming under or through Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or part thereof. Developer shall include such provision in all deeds, leases, contracts, and other instruments executed by Developer, and shall enforce the same diligently and in good faith.

Exhibit A

All deeds, leases, and contracts pertaining to management of the Project, made or entered into by Developer, its successors or assigns, as to any portion of the Property or the Project Improvements shall contain the following language:

(a) (1) In Deeds, the following language shall appear:

Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of a person or of a 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 property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.”

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

(b) (1) In Leases, the following language shall appear:

The lessee herein covenants by and for the lessee and lessee’s heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased.

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

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of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(c) (1) In Contracts pertaining to management of the Project, the following language, or substantially similar language prohibiting discrimination and segregation shall appear:

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 property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees, or vendees of the land.

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

2.6 Relocation. Persons residing on the Property prior to commencement of construction of the Project, shall not be displaced before suitable replacement housing is available. Developer shall ensure that all occupants of the Property receive all notices, benefits, and assistance to which they are entitled in accordance with California Relocation Assistance Law (Government Code Section 7260 *et seq.*), all state and local regulations implementing such law, and all other applicable local, state, and federal laws, regulations and policies, including but not limited to the Uniform Relocation Act (42 U.S.C. § 4601 *et seq.*) and implementing regulations (collectively “**Relocation Laws**”) relating to the displacement and relocation of eligible persons as defined in such Relocation Laws. All costs incurred in connection with the temporary and/or permanent displacement and/or relocation of occupants of the Property, including without limitation payments to a relocation consultant, moving expenses, and payments for temporary and permanent relocation benefits pursuant to Relocation Laws shall be paid by Developer, and City shall have no responsibility for payment therefor.

To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the City and the City, and their respective elected and appointed officers, officials, employees, agents, consultants, contractors, and representatives (collectively, the “**Indemnitees**”) harmless from and against all liability, loss, cost, expense (including without limitation attorneys’ fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing

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collectively “**Claims**”) arising from the breach of Developer’s obligations set forth in this Section whether or not any insurance policies shall have been determined to be applicable to any such Claims. Developer’s indemnification obligations set forth in this Section (i) shall survive the expiration or earlier termination of this Agreement, and (ii) shall not extend to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees.

3. Reporting Requirements; Access to Information; Inspections; Annual Monitoring Fee.

3.1 Tenant Certification. Developer or Developer’s authorized agent shall obtain from each prospective tenant prior to initial occupancy of each Restricted Unit, and on every anniversary thereafter, a written certificate containing all of the following in such format and with such supporting documentation as City may reasonably require:

- (i) The identity of each household member;
- (ii) The total household Gross Income; and
- (iii) The age of each household member or other basis upon which each household member qualifies for occupancy under California Civil Code Section 51.3 *et seq.*

Developer shall retain such certificates for not less than five (5) years, and upon City’s request, shall provide copies of such certificates to City and make the originals available for City inspection.

3.2 Annual Report; Inspections. By not later than April 1 of each year during the Term of this Agreement, commencing in the year following completion of construction of the Project, Developer shall submit a report describing operations of the Project during the preceding calendar year (“**Annual Report**”) to the City in form satisfactory to City, together with a certification that the Project is in compliance with the affordability restrictions and occupancy requirements of this Agreement. The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Project: (i) unit number; (ii) number of bedrooms; (iii) current rent, utility, and other charges; (iv) dates of any vacancies during the previous year; (v) number of people residing in the unit; (vi) total household Gross Income of residents; (vii) documentation of source of household income; (viii) lease commencement and termination dates; (ix) initial move-in date; and (x) the information required by Section 3.1.

Developer shall include with the Annual Report documentation verifying tenant eligibility, and such additional information as City may reasonably request from time to time in order to demonstrate compliance with this Agreement. The Annual Report shall conform to the format requested by City; provided however, during such time that the Project is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of state or federal low-income housing tax credits or tax-exempt bond financing, Developer may satisfy the requirements of this Section that pertain to tenant income certification and rents by providing City with a copy of compliance reports required in connection with such financing.

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In addition to the information described above, the Annual Report shall include the following:

- (i) A Project income and expense statement for the reporting period;
- (ii) Proposed annual budget for the next fiscal year which sets forth Developer's estimate of operating income, operating expenses and debt service for the year, amounts payable to reserves and proposed rent adjustments;
- (iii) Information on the status of the waiting list for units, including the number of households on the list;
- (iv) A report on reserve accounts which Developer is required to maintain for the Project, including an operating reserve and replacement reserve account, if applicable, summarizing draws of funds from such reserve account(s) during the prior calendar year and remaining balances;
- (v) A report summarizing any significant repairs or maintenance undertaken for the Project during the prior calendar year and describing any remaining physical defects to be corrected and the budget for such work;
- (vi) A financial audit of the books and records of the Project prepared in accordance with generally accepted auditing standards by an independent certified public accountant.; provided however, if in the ordinary course of business regarding the audit of Developer's books and records concerning the Project, the audit is not reasonably available at the time the Annual Report is submitted, Developer shall provide a copy of such audit to the City promptly when the same has been received by Developer;
- (vii) City may, from time to time, request additional or different information, and Developer shall promptly supply such information in the reports required hereunder.

3.3. Maintenance of Records.

3.3.1 Developer shall maintain all records regarding the construction of the Project for five (5) years after final payment and all other pending matters are closed. Developer shall also maintain tenant leases, income certifications, and other matters related to the leasing of the Project for a period of five (5) years after the final date of occupancy by the tenant.

3.3.2 Records must be kept accurate and up-to-date. City shall notify Developer of any records it deems insufficient. Developer shall have fifteen (15) calendar days from such notice to correct any specified deficiency in the records; or, if more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Developer shall begin to correct the deficiency within fifteen (15) days and diligently pursue the correction of the deficiency as soon as reasonably possible.

3.4 Access to Records; Inspections.

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3.4.1 With at least five (5) business days' written notice, during normal business hours, Developer shall provide City and its authorized agents and representatives access to the books, documents, papers and records of the Project for the purpose of making audits, examinations, excerpts and transcriptions.

3.4.2 With at least two (2) business days' written notice, during normal business hours and as often as may be deemed necessary, City and its authorized agents and representatives shall be permitted access to and the right to examine the Project and the Property and to interview tenants and employees of the Project, for the purpose of verifying compliance with applicable regulations and compliance with the conditions of this Agreement and the other City Documents.

3.4.3 City shall comply with all applicable provisions of law pertaining to the protection of personal financial and/or identifying information of tenants provided to, or made available to City for inspection pursuant to this Agreement, including without limitation, the provisions of California Civil Code Sections 1798.80 through 1798.84, to the extent applicable to the City. All tenant files, leases, certifications, income verification documentation, and any other documents that may contain personal financial or identifying information of any tenant (collectively referred to as "**Tenant Data**") to be provided by the Developer to the City or any third party on the City's behalf, shall be made available for review by City or its representatives either on-site at the Property or via an internet-based document sharing platform selected by Developer. The City and its representatives agree to comply with all applicable laws with respect to the handling, maintenance and protection of Tenant Data, including, but not limited to, the provisions of Sections 1798.80 through and including 1798.84 of the California Civil Code, as amended.

3.5 Affordable Housing Monitoring Fee. Developer shall be obligated to pay to City an annual fee for the City's costs of monitoring Developer's compliance with the Agreement in the amount designated in the City's Master Fee Schedule, as may be amended from time to time, per unit for each Restricted Unit in the Project (the "**Affordable Housing Monitoring Fee**"). The Affordable Housing Monitoring Fee shall be due to City by not later than April 1 of each year during the Term of this Agreement, commencing in the year following recording of the Certificate of Completion in the Official Records in accordance with Section 310 of the DDA.

In the event that in any year there is insufficient Project cash flow available to pay the Affordable Housing Monitoring Fee, the City will permit the fee to be deferred. Any deferred amounts shall accrue and shall be payable from future Project cash flow.

Notwithstanding anything to the contrary contained in this Section 3.5, Developer shall not be required to pay any Affordable Housing Monitoring Fee for any given year provided that Developer complies with the Annual Report requirements set forth in Section 3.2 herein.

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4. Term of Agreement.

4.1 Term of Restrictions. This Agreement shall remain in effect until the fifty-fifth (55th) anniversary of the Affordable Housing Occupancy Date (the “**Term**”).

4.2 Effectiveness Succeeds Conveyance of Property. This Agreement shall remain effective and fully binding for the full Term hereof regardless of any sale, assignment, transfer, or conveyance of the Project or the Property, or any part thereof or interest therein.

4.3 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the Term.

5. Binding Upon Successors; Covenants to Run with the Land. Developer hereby subjects its interest in the Property and the Project to the covenants and restrictions set forth in this Agreement. The City and Developer hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Developer and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Developer, including without limitation any purchaser, transferee or lessee of the Property or the Project (other than the tenants of the individual dwelling units within the Project) shall be subject to all of the duties and obligations imposed hereby for the full Term of this Agreement.

Commencing upon the Effective Date of this Agreement, each and every contract, deed, ground lease, or other instrument affecting or conveying the Property or the Project or any part thereof, shall conclusively be deemed to have been executed, delivered, and accepted subject to the covenants, restrictions, duties, and obligations set forth herein, regardless of whether such covenants, restrictions, duties, and obligations are set forth in such contract, deed, ground lease, or other instrument. Developer agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Property and the Project in favor of City.

6. Property Management; Repair and Maintenance; Marketing; Reserves; Supportive Services.

6.1 Management Responsibilities. Developer shall be responsible for all management functions with respect to the Property and the Project, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. City shall have no responsibility for management or maintenance of the Property or the Project.

6.2 Management Entity. City shall have the right to review and approve the qualifications of the property management entity proposed by Developer for the Project, and shall have the right to review and approve any property management agreement executed between

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Developer and such entities, which approvals shall not be unreasonably withheld. The contracting of management services to a management entity shall not relieve Developer of its primary responsibility for proper performance of management duties. City hereby approves Eden Housing Management, Inc. as the initial property management entity for the Project. Any subsequent management entity shall be subject to City review and approval, which shall not be unreasonably withheld or delayed.

6.3 Repair, Maintenance and Security. Throughout the Term of this Agreement, Developer shall at its own expense, maintain the Property and the Project in good physical condition, in good repair, and in decent, safe, sanitary, habitable, and tenantable living condition in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations, reasonable wear and tear excepted. Without limiting the foregoing, Developer agrees to use reasonable efforts to maintain the Project and the Property (including without limitation, the apartment units therein, common areas, meeting rooms, landscaping, driveways, parking areas, and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Project. Developer shall take reasonable action to prevent and/or rectify any physical deterioration of the Property and the Project and shall make all repairs, renewals, and replacements reasonably necessary to keep the Property and the Project Improvements located thereon in good condition and repair. Developer shall provide adequate security measures for the Project, including without limitation, the installation of adequate lighting and deadbolt locks.

6.3.1 Additional Requirements. All construction/rehabilitation work and professional services for the Project shall be performed by persons or entities licensed or otherwise authorized to perform the applicable work or service in the State of California and shall have a current City of Benicia business license if required under local law. To the extent allowed by state and federal laws, Developer shall use reasonable efforts to limit the installation of satellite dish, antenna, and other such equipment to screened locations on the Property as approved by the City. Developer shall diligently work to resolve complaints related to noise, parking, litter or other neighborhood concerns.

6.4 City's Right to Perform Maintenance. In the event that Developer breaches any of the covenants contained in Section 6.3, and such default continues for a period of ten (10) days after written notice from City to Developer which notice identifies in reasonable detail the item or matters which City has determined to be in default (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City to Developer identifying items in default (with respect to landscaping, building improvements, and general maintenance), or if such default is of a nature that it cannot be cured within such ten (10) or thirty (30) days, as applicable, Owner shall have such additional time as is reasonably necessary to cure such default so long as Owner commences cure within such initial ten (10) or thirty (30) day period, as applicable, and diligently pursues such cure to completion, then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the Project Improvements and the landscaped areas on the Property. All costs expended by City in connection with the foregoing, shall constitute an indebtedness of Developer, and shall be paid by Developer to City upon written demand by City accompanied by a description of the work performed and costs incurred by City.

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All such sums remaining unpaid thirty (30) days following delivery of City's invoice therefor shall bear interest at the lesser of ten percent (10%) per annum or the highest rate permitted by applicable law. If authorized by California law, City shall have a lien against the Property for the amount of such unpaid sums and shall have the right to record a Notice of Claim of Lien against the Property.

6.5 Marketing and Management Plan; Rental Agreements. Not later than the time provided for in the Schedule of Performance, Developer shall submit for City review and approval, which approval will not be unreasonably withheld, conditioned or delayed, a plan for marketing the Restricted Units ("**Marketing and Management Plan**"). The Marketing and Management Plan shall address in detail how Developer plans to market the Restricted Units to prospective Eligible Households in accordance with fair housing laws and this Agreement, Developer's tenant selection criteria, and how Developer plans to certify the eligibility of Eligible Households. The Marketing and Management Plan shall also describe the management team and shall address how the Developer and the management entity plan to manage and maintain the Property and the Project in accordance with the Site Management Plan required pursuant to Section 6.7. In addition, the Marketing and Management Plan shall include information regarding the qualifications of the proposed social services provider, and a description of the services to be provided to residents in accordance with the Supportive Services Plan required pursuant to Section 6.6.

The Marketing and Management Plan shall include a copy of (i) the Site Management Plan and proposed agreement between Developer and the management entity, (ii) the Supportive Services Plan and proposed agreement between Developer and the social services provider, and (iii) the form of rental agreement that Developer proposes to enter into with tenants of Restricted Units. Developer shall abide by the terms of the approved Marketing and Management Plan and attendant Site Management Plan and Supportive Services Plan in marketing, operating, managing, and maintaining the Property and the Project, and throughout the Term of this Agreement, shall submit any proposed modifications to any of said plans to City for its review and approval.

In addition to the foregoing, the Marketing and Management Plan shall address the following:

- (a) The actions to be taken by Developer to affirmatively market units in compliance with fair housing laws and in compliance with City's policies and procedures, including the policies described in Section 2.6 above;
- (b) Criteria for determining tenant eligibility, including certification of household income and size, age of household members or other qualifying criteria, and establishing reasonable occupancy standards (which occupancy standards shall be consistent with applicable local, state and federal fair housing laws and state housing and building codes), and procedures for screening prospective tenants, including obtaining credit reports, unlawful detainer reports, landlord references, and criminal background investigations, if permitted by applicable California law;
- (c) A requirement that eligible applicants be selected for tenancy in the Project based on order of application, lottery or other reasonable method approved by City;

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(d) A requirement that eligible applicants be notified of eligibility and be provided an estimate regarding when a unit may be available;

(e) A requirement that ineligible applicants be notified of the reason for their ineligibility;

(f) Specific procedures through which applicants deemed to be ineligible may appeal this determination;

(g) Maintenance of a waiting list of eligible applicants;

(h) Specific procedures for obtaining documentation regarding prospective tenants' incomes, as necessary, to certify that such income does not exceed allowable income limits;

(i) Specific procedures for certification and recertification of household incomes and procedures for handling over-income tenants;

(j) A requirement that a written rental agreement (in form approved by City) be executed with each Eligible Household selected to occupy a Restricted Unit;

(k) A detailed listing of reasonable rules of conduct and occupancy which shall be in writing, shall be consistent with federal and state law, and shall be provided to each tenant upon occupancy;

(l) A requirement that there be no storage on balconies and patios and that tenants must keep all balconies, patios, and other exterior areas neat, clean, and clutter free, including no clotheslines or laundry;

(m) A parking management plan which details, among other things, how parking spaces will be assigned, how guest parking will be handled and how parking will be managed to encourage tenants to use their assigned parking spaces;

(n) Procedures for maintenance and management of the Project;

(o) Procedures for dealing with tenant or neighborhood issues or concerns;

(p) Procedures for maintaining required Project reserve accounts, budgeting for maintenance and repair needs as well as long-term rehabilitation needs, and handling net cash flow; and

(q) Such other requirements and criteria/procedures as City may reasonably determine appropriate.

6.6 Supportive Services Plan. Developer shall be responsible for ensuring that adequate supportive services are provided to residents of the Restricted Units, as more particularly set forth herein. Within the time established in the Schedule of Performance, Developer shall

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submit to City a residential supportive services plan, in a form acceptable to City (“**Supportive Services Plan**”), the identity and qualifications of the proposed supportive services provider, and the proposed supportive services agreement for City’s review and approval.. The City Manager shall approve or disapprove the proposed Supportive Services Plan, proposed supportive services provider, and the proposed supportive services agreement within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Supportive Services Plan, proposed supportive services provider, or the proposed supportive services agreement, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Supportive Services Plan, proposed supportive services provider, and proposed supportive services agreement in the same manner and within the same time established in the Schedule of Performance. City hereby approves Eden Housing Resident Services, Inc. as the initial supportive service provider entity for the Project.

The Supportive Services Plan shall address the following, to the extent applicable:

- (a) A description of the target population and anticipated needs of tenants;
- (b) A description of how needs will be identified on an initial and ongoing basis including needs assessment, case management and monitoring;
- (c) Identification of service provider including point of contact, staffing levels, location of coordination services and hours of operation, service request procedures and confidentiality measures;
- (d) A description of supportive services offered to tenants (e.g., case management, benefits enrollment and assistance, legal aid, nutrition/meals, health and wellness support, activities and socialization, independent living skills), if any. Include where and how the service will be delivered, the frequency of the service delivery and the service provider;
- (e) Identification of key funding and community partners such as community organizations, healthcare providers, transportation agencies, etc.;
- (f) Accessibility and inclusivity of services including reasonable accommodations, language access and translation;
- (g) Procedures for emergency and crisis support, including coordination with emergency service providers, wellness checks, emergency and evacuation planning;
- (h) Service provider accountability, including resident feedback mechanisms and procedures for tracking, evaluating and measuring outcomes; and
- (i) Any required compliance statements required by funding sources.

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6.7 Site Management Plan. Developer shall be responsible for ensuring that a person with the requisite skill and experience managing multi-family residential developments (“**Property Manager**”) lives on the Property in the Manager’s Units. Further, Developer shall be responsible for addressing in detail their plan to provide for the maintenance, repair (both routine and extraordinary), and rehabilitation of the Restricted Units, replacement of capital items in the Restricted Units, and implementation of the requirements of the Project Approvals (“**Site Management Plan**”). Within the time established in the Schedule of Performance, Developer shall submit to City a Site Management Plan, the identity and qualifications of the proposed site management provider, the proposed site management agreement, for City’s review and approval, and any subsequent amendments thereto during the Term of this Agreement. The City Manager shall approve or disapprove the proposed Site Management Plan, proposed site management provider, proposed site management agreement, and any amendments thereto, within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Site Management Plan, proposed site management provider, proposed site management agreement, or any amendments thereto, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any amendments to the Site Management Plan, proposed site management provider, and proposed site management agreement in the same manner established in the Schedule of Performance.

The Site Management Plan shall address the following:

- (a) Overview of the facility including property type, unit mix, and target populations;
- (b) Property management structure including: ownership entity, property management company and on-site staff, off-site management functions (if applicable), and hours and emergency contact protocols for the property manager and maintenance supervisor;
- (c) Staffing plan that identifies total full-time and part-time positions, on-site hours of operation, qualifications and training regulatory obligations including Fair Housing Act and “mandated reporter” duties;
- (d) Financial management controls including rent collection policies (due date, late payment, rent increases and notices, payment methods, and eviction prevention);
- (e) Facility maintenance including preventative maintenance inspection schedule, work order procedures and timelines, unit turnover procedures, and capital needs planning;
- (f) Safety and security systems including controlled access systems, lighting, emergency call systems, incident reporting, and coordination with first responders (police/fire/EMS); and

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(g) Emergency preparedness including fire safety/evacuation procedures, extreme weather response, and power outages. Staff roles, communication methods and special assistance needs for residents with disabilities should be described.

6.8 Approval of Amendments. If City has not responded to any submission of the Management and Marketing Plan, the proposed management entity, the proposed management agreement, the form of lease agreement, the Supportive Services Plan, the proposed supportive services provider, the proposed supportive services agreement, the Site Management Plan, the proposed site management provider, the proposed site management agreement, or any proposed amendment or change to any of the foregoing within twenty (20) business days following City's receipt of such plan, proposal, agreement, or amendment, the plan, proposal, agreement, or amendment shall be deemed approved by City.

6.9 Fees, Taxes, and Other Levies. Developer shall be responsible for payment of all fees, assessments, taxes, charges, liens, and levies applicable to the Property or the Project, including without limitation possessory interest taxes, if applicable, imposed by any public entity, and shall pay such charges prior to delinquency. However, Developer shall not be required to pay any such charge so long as (a) Developer is contesting such charge in good faith and by appropriate proceedings; (b) Developer maintains reserves adequate to pay any contested liabilities; and (c) on final determination of the proceeding or contest, Developer immediately pays or discharges any decision or judgment rendered against it, together with all costs, charges, and interest. The foregoing is not intended to impair Developer's ability to apply for any applicable exemption from property taxes or other assessments and fees. Nothing in this Section is intended to impair Developer's right to seek a "welfare exemption" from the payment of ad valorem real property taxes assessed against the Property under California Revenue and Taxation Code Section 214(g).

6.10 Insurance Coverage. Throughout the Term of this Agreement, Developer shall comply with the insurance requirements set forth in Exhibit C, and shall, at Developer's expense, maintain in full force and effect insurance coverage as specified in Exhibit C.

6.11 Property Damage or Destruction. If any part of the Project is damaged or destroyed, Developer shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced as soon as reasonably practicable after the damage or loss occurs and shall be completed within one year thereafter or as soon as reasonably practicable, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible. .

7. Recordation; No Subordination. This Agreement shall be recorded in the Official Records and shall not be subordinated to any deeds of trust provided for the benefit of lenders identified in the Evidence of Financing submitted to, and approved by, City for the Project, pursuant to the DDA.

8. Transfer and Encumbrance.

8.1 Restrictions on Transfer and Encumbrance. During the Term of this Agreement, Developer shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively,

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“**Transfer**”) of the whole or any part of the Property, the Restricted Units, the Project, or the Project Improvements located on the Property, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the Term of this Agreement, except as expressly permitted by this Agreement, Developer shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a “significant change of ownership” shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the ownership and /or control of Developer, taking all previous transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner and/or special limited partner, nor the transfer by the investor limited partner and/or special limited partner to subsequent limited partners or special limited partner, as applicable, nor the transfer of the Project, Property and/or Improvements to a general partner, or an affiliate of a general partner of the Developer, pursuant to an option or right of first refusal granted such parties pursuant to Developer’s agreement of limited partnership (the “**Partnership Agreement**”) shall be restricted by this provision.

8.2 Transfers. Subject to Section 8.3 below, the prohibitions set forth in this Article 8 shall not be deemed to prevent: (i) the granting of temporary or permanent easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to the City Documents; (iii) the lease of individual residences to tenants for occupancy as their principal residence in accordance with this Agreement; (iv) assignments creating security interests (including without limitation, collateral assignments of partnership equity interests) for the purpose of financing the acquisition, construction, rehabilitation, or permanent financing of the Project or the Property, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; (v) the admission of limited partners and any transfer of limited partnership interests in accordance with the Partnership Agreement; (vi) the removal of the general partner of the Developer by the investor limited partner for cause in accordance with the terms of the Partnership Agreement, provided that the replacement general partner is an entity reasonably satisfactory to City or is an affiliate of the investor limited partner that will serve as general partner for an interim period of no more than one hundred eighty (180) days during which time a permanent replacement general partner reasonably satisfactory to City shall be identified and admitted; or (vii) the transfer of the general partner’s interest to a nonprofit entity that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended (or to an entity wholly-owned thereby), provided such replacement general partner is reasonably satisfactory to City; or (viii) the transfer of the Project, Property and/or Improvements or the limited partner’s interest in the Developer to a general partner, or an affiliate of a general partner of the Owner, pursuant to an option or right of first refusal granted such parties pursuant to the Partnership Agreement.

8.3 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Property, the Project Improvements or part thereof if all of the following requirements are met (provided however, the requirements of this Section 8.3 shall not apply to Transfers described in clauses (i), (ii), (iii), (iv), and (v) of Section 8.2, and solely with respect to (a) the removal of the general partner by the investor limited partner for a default under the Partnership Agreement, and (b) the replacement of the general partner with an affiliate of the investor limited partner for an interim period of not more than one hundred eighty (180) days, clause (vi) of Section 8.2 (provided that the provisions of this

Exhibit A

Section 8.3 shall apply to the selection of a replacement general partner in the event of a removal of the general partner in accordance with clause (vi) of Section 8.2):

(i) The proposed transferee demonstrates to the City's satisfaction that it has the qualifications, experience, and financial resources necessary and adequate as may be reasonably determined by the City to competently complete construction and manage the Project and to otherwise fulfill the obligations imposed on the owner of the Property under this Agreement.

(ii) The transferor and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of all or any part of or interest in the Property, the Project Improvements, or this Agreement together with such documentation of the proposed transferee's qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Developer under this Agreement and the other City Documents arising after the effective date of the Transfer and all obligations of Developer arising prior to the effective date of the Transfer (unless Developer expressly remains responsible for such obligations) and shall agree to be subject to and assume all of the obligations pursuant to the Project Approvals and all other conditions, and restrictions set forth in this Agreement.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

Consent to any proposed Transfer may be given by the City's Authorized Representative unless the City's Authorized Representative, in his or her discretion, refers the matter of approval to the City Council. If the City has not rejected a proposed Transfer or requested additional information regarding a proposed Transfer in writing within forty-five (45) days following City's receipt of written request for such Transfer, the proposed Transfer shall be deemed approved.

8.4 Effect of Transfer without City Consent. In the absence of specific written agreement by the City, no Transfer of the Property or the Project shall be deemed to relieve the Developer or any other party from any obligation under this Agreement. It shall be an Event of Default hereunder entitling City to pursue remedies if without the prior written approval of the City, Developer assigns or Transfers this Agreement, the Project Improvements, or the Property in violation of Section 8. This Section 8.4 shall not apply to Transfers described in clauses (i), (ii), (iii), (iv), and (v) of Section 8.2, and solely with respect to (a) the removal of the general partner by the investor limited partner for a default under the Partnership Agreement, and (b) the replacement of the general partner with an affiliate of the investor limited partner for an interim period of not more than one hundred eighty (180) days, pursuant to clause (vi) of Section 8.2.

8.5 Recovery of City Costs. Within ten (10) days following City's delivery of an invoice detailing such costs, the party proposing a Transfer shall reimburse City for all City costs, including but not limited to reasonable attorneys' fees, reasonably incurred in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee

Exhibit A

8.6 Encumbrances. Developer agrees to use best efforts to ensure that all deeds of trust or other security instruments recorded against the Property, the Project, or part thereof, for the benefit of a lender identified in the Evidence of Financing approved by City pursuant to the DDA (“**Third-Party Lender**”) shall contain each of the following provisions: (i) Third-Party Lender shall use reasonable efforts to provide to City a copy of any notice of default issued to Developer concurrently with provision of such notice to Developer; (ii) City shall have the reasonable right, but not the obligation, to cure any default by Developer within the same period of time provided to Developer for such cure extended by an additional ninety (90) days, and that such Third-Party Lender shall accept a cure made by the City with the same force and effect as if the cure had been made by Developer; (iii) provided that City has cured any default under Third-Party Lender’s deed of trust and other loan documents, City shall have the right to take title to the Property and the Project without acceleration of Third-Party Lender’s debt; and (iv) City shall have the right to transfer the Property and the Project without acceleration of Third-Party Lender’s debt to a nonprofit corporation or other entity which shall own and operate the Project as an affordable rental housing development, subject to the prior written consent of the Third-Party Lender. Developer agrees to provide to City a copy of any notice of default Developer receives from any Third-Party Lender within three (3) business days following Developer’s receipt thereof.

8.7 Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Property, and the purchaser at any trustee’s sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Unless this Agreement is subordinated in accordance with Section 7 above, such purchaser shall be bound by and subject to this Agreement from and after such trustee’s sale or foreclosure sale. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of any mortgages or deeds of trust encumbering the Project or the Property that such violation has occurred.

9. Default and Remedies.

9.1 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder (“**Event of Default**”):

- (i) The occurrence of a Transfer in violation of Section 8 hereof;
- (ii) Developer’s failure to maintain insurance on the Property and the Project as required hereunder, and the failure of Developer to cure such default within five (5) days;
- (iii) Subject to Developer’s right to contest the following charges, Developer’s failure to pay prior to delinquency taxes or assessments due on the Property or the Project or failure to pay when due any other charge that may result in a lien on the Property or the Project, and Developer’s failure to cure such default within twenty (20) days of delinquency, but in all events prior to the date upon which the holder of any such lien has the right to foreclose thereon;
- (iv) A default by the Developer arises under the DDA that remains uncured beyond the expiration of any applicable cure period; or

Exhibit A

(v) Developer's default in the performance of any term, provision or covenant under this Agreement (other than an obligation enumerated in this Section 9.1), and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days following written notice from City in the event of a monetary default or thirty (30) days following written notice from City in the event of a non-monetary default, or if the nature of any such non-monetary default is such that it cannot be cured within such thirty (30) day period, Developer's failure to commence to cure the default within thirty (30) days and thereafter prosecute the cure of such default to completion with due diligence and in good faith but in no event longer than ninety (90) days from receipt of the notice of default.

The limited partners of Developer shall have the right but not the obligation to cure any default of Developer hereunder upon the same terms and conditions afforded to Developer, and City will recognize a cure performed by a limited partner with the same force and effect as if the cure were performed by Developer; provided however, if the default is of such nature that the limited partners reasonably determine that it is necessary to replace the general partner of Developer in order to cure such default, then the applicable cure period shall be extended by an additional sixty (60) days following the removal and replacement of such general partner, provided that the limited partners have promptly commenced and diligently proceeded with all requisite actions to effect such removal and replacement. City shall provide a copy of any notice of default hereunder to the limited partners at the address set forth in Section 11.3 hereof, or to such other address provided to the City in writing, concurrently with the provision of such notice to Developer.

9.2 Remedies. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City may proceed with any of the following remedies:

- (i) Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;
- (ii) For violations of obligations with respect to rents for Restricted Units, impose a charge in an amount equal to the actual amount collected from a tenant in excess of the Affordable Rent; or
- (iii) Pursue any other remedy allowed under the City Documents or at law or in equity.

Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

10. Indemnity. To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against all Claims arising directly or indirectly, in whole or in part, as a result of or in connection with Developer's construction/rehabilitation, management, or operation of the Property and the Project, or Developer's employees', agents', contractors', or subcontractors' failure to comply with applicable law, including without limitation state and federal fair housing laws, or failure to perform any obligation as and when required by this Agreement. Developer's indemnification

Exhibit A

obligations under this Section 10 shall not extend to Claims to the extent resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 10 shall survive the expiration or earlier termination of this Agreement.

10.1 Terms Applicable to Indemnity Provisions. The terms set forth in this Section 10.1 shall apply to all provisions of this Agreement that pertain to Developer's obligations to indemnify City and the other Indemnitees, including without limitation, Section 10. In connection with each such provision, all of the following shall apply:

(a) City does not and shall not waive any rights that it may have by reason of any indemnity and hold harmless provision set forth in this Agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

(b) Developer's obligation to indemnify the Indemnitees shall not be limited or impaired by any of the following: (i) any amendment or modification of any City Document (unless and to the extent an indemnity provision was modified by such amendment or modification); (ii) any extensions of time for performance required by any City Document; (iii) any provision in any of the City Documents limiting the personal liability of Developer, or any other party under the City Documents; (iv) the accuracy or inaccuracy of any representation and warranty made by Developer under this Agreement or by Developer or any other party under any City Document, (v) the release of Developer or any other person, by City or by operation of law, from performance of any obligation under any City Document; (vi) the release or substitution in whole or in part of any security; and (vii) City's failure to properly perfect any lien or security interest given as security for performance of Developer's obligations under the City Documents.

(c) The obligations of Developer to indemnify the Indemnitees shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of this Agreement.

11. Miscellaneous.

11.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties and recorded in the Official Records.

11.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Developer of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

11.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing and sent to the Parties and the Investor Limited Partner at their respective addresses specified below or to such other address as a Party or the Investor Limited Partner, as applicable, may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is

Exhibit A

effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed to the sender by the delivery service.

City: City of Benicia
250 East L Street
Benicia, CA 94510
Attention: Mario Giuliani, City Manager
Telephone: (707)746-4289
Email: MGiuliani@ci.benicia.ca.us

With copy to: Burke, Williams & Sorensen, LLP
181 Third Street, Suite 200
San Rafael, CA 94901
Attention: Benjamin Stock, City Attorney
Telephone: (415) 755-2605
Email: bstock@bwslaw.com

Developer: Eden Benicia Senior Investors LP
c/o Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: Tami Strauss
Telephone: (510) 931-8210
Email: tami.strauss@edenhousing.org

With a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Evan Goss, Esq.
Telephone: (415)781-6600 ext. 6
Email: egoss@gubbbbarshay.com

11.4 Further Assurances. The Parties shall execute, acknowledge, and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

11.5 Parties Not Co-Venturers; Independent Contractor; No City Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of Developer and City shall not be construed as a joint venture, equity venture, partnership, or any other relationship. City neither undertakes nor assumes any responsibility or duty to Developer (except as expressly provided in the City Documents or in this Agreement) or to any third party with respect to the Project. Developer and its employees are not employees of City but rather are, and shall always be considered independent

Exhibit A

contractors. Furthermore, Developer and its employees shall at no time pretend to be or hold themselves out as employees or agents of City. Except as City may specify in writing, Developer shall not have any authority to act as an agent of City or to bind City to any obligation.

11.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent, or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City's Authorized Representative or by any person who shall have been designated by the City's Authorized Representative, without further approval by the City Council.

11.7 Non-Liability of Officials, Employees, and Agents. No member, official, officer, employee, or agent of a Party shall be personally liable to the other Party or any successor in interest to such Party, in the event of any default or breach by such Party, or for any amount of money which may become due to such Party or its successor or for any obligation of such Party under the City Documents or this Agreement. Notwithstanding the foregoing, nothing set forth in this Section shall be deemed to limit or restrict the ability of City to seek or obtain a judgment against Developer or to enforce against Developer and its general partners to:

(A) recover under any provision of any City Document that obligates Developer to indemnify City, or

(B) recover from Developer and its general partners compensatory damages as well as other costs and expenses incurred by City (including without limitation reasonable attorneys' fees and expenses) arising as a result of the occurrence of any of the following: (a) any fraud or intentional misrepresentation on the part of the Developer, or any general partner thereof, or any officer, director or authorized representative of Developer or any general partner thereof in connection with the request for City funds, or in any City Document, or in connection with any request for any action or consent by City in connection with City funds; (b) any failure to maintain insurance on the Property and the Project as required pursuant to the City Documents; (c) failure to pay taxes, assessments or other charges which may become liens on the Property or the Project (subject to the right to contest as set forth in the City Documents); (d) the presence of Hazardous Materials on the Property or other violation of the Developer's obligations under the City Documents pertaining to environmental matters; (e) the occurrence of any act or omission of Developer that results in waste to or of the Project or the Property and which has a material adverse effect on the value of the Project or the Property; (f) the removal or disposal of any personal property or fixtures or the retention of rents, insurance proceeds, or condemnation awards in violation of the City Documents; and (g) the material misapplication of the proceeds of any insurance policy or award resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Project or the Property.

11.8 Headings; Construction; Statutory References. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party. All references in this Agreement to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the City of Cathedral City shall be deemed to include the same statute, regulation, ordinance, or

Exhibit A

resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

11.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

11.10 Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Riverside County, California or in the Federal District Court for the Central District of California.

11.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

11.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

11.13 Entire Agreement; Exhibits. This Agreement, together with the DDA and the other City Documents, contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. Exhibits A through C attached hereto are incorporated herein by this reference.

11.14 Survival. Developer's obligations pursuant to Sections 2.1, 2.6, and 10, and all other provisions that expressly so state, shall survive the expiration or termination of this Agreement.

11.15 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE(S).

Exhibit A

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

CITY:

City of Benicia, a California municipal corporation

By: _____

Print Name: _____

Title: City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

DEVELOPER:

Eden Benicia Senior Investors LP, a California limited partnership

By: Eden Benicia Senior LLC, a California limited liability company

Its: General Partner

By: Eden Housing, Inc., a California nonprofit public benefit corporation

Its: sole member/manager

By: _____

Print Name: _____

Title: _____

SIGNATURES MUST BE NOTARIZED.

Exhibit A

ACKNOWLEDGMENT

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)
) ss
County of _____)

On _____, before me, _____,
(Name of Notary)

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.

(Notary Signature)

Exhibit A

ACKNOWLEDGMENT

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)
) ss
County of _____)

On _____, before me, _____,
(Name of Notary)

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.

(Notary Signature)

Exhibit A

Exhibit A

LEGAL DESCRIPTION OF THE PROPERTY

[to be inserted]

Exhibit A

Exhibit B

Number of Units by Unit Size and Targeted Area Median Income (AMI) Levels

	30% AMI	50% AMI	80% AMI	Mgr Unit	Total
Studio	-	-	-	0	-
1-Bedroom	-	-	-	0	-
2-Bedroom	0	0	0	2	-
Total	-	-	-	2	-

Exhibit A

Exhibit C

INSURANCE REQUIREMENTS

Prior to initiating work on the Project and continuing throughout the Term of this Agreement, Developer shall obtain and maintain the following policies of insurance and shall comply with all provisions set forth in this Exhibit.

(a) Commercial General Liability. A commercial general liability policy with coverage limits in the amount of the greater of (i) the amounts required by the senior construction and permanent lenders for the Project, or (ii) One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) annual aggregate, together with Five Million Dollars (\$5,000,000) excess liability coverage, or such other policy limits as City may reasonably require in its discretion, including coverage for bodily injury, property damage, products, completed operations, and contractual liability coverage. The coverage requirements for subcontractors shall be One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) annual aggregate. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

(b) Automobile. Comprehensive automobile liability coverage in the amount of One Million Dollars (\$1,000,000), combined single limit including coverage for owned and non-owned vehicles. Automobile liability policies shall name the Indemnitees as additional insureds.

(c) Workers' Compensation; Employer's Liability. Developer shall furnish or cause to be furnished to City evidence satisfactory to City that Developer and any contractor with whom Developer has contracted for the performance of work on the Property or otherwise pursuant to this Agreement carries Workers' Compensation insurance as required by law and Employer's Liability insurance in a minimum amount of One Million Dollars (\$1,000,000) per accident.

(d) Builder's Risk. Upon commencement of construction and continuing until issuance of a Certificate of Completion, Developer or the general contractor working on behalf of Developer shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee as its interests may appear.

(e) Professional Liability/Errors and Omissions. Professional Liability/Errors and Omissions insurance as appropriate for design/build operations with limits not less than One Million Dollars (\$1,000,000) each claim. If the professional liability/errors and omissions insurance is written on a claims made basis: (i) the retroactive date must be shown and must be before the Effective Date, (ii) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of Project construction/rehabilitation, and (iii) if coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the Effective Date, Developer must purchase extended period coverage for a minimum of three (3) years after completion of construction/rehabilitation.

(f) Property. Commencing upon the Effective Date, Developer shall maintain property insurance covering all risks of loss, including earthquake (if required) and flood (if required) for

Exhibit A

100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, naming City as loss payee as its interests may appear.

(g) Insurance Providers. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A: VII.

(h) Evidence of Insurance, Endorsements, Policies. Prior to the Effective Date of this Agreement, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage, duly executed endorsements evidencing the Indemnitees' status as additional insured, and all other endorsements and coverage required hereunder. The certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination, or non-renewal. All insurance certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination, or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination, or non-renewal. Upon City's request, Developer shall, within thirty (30) days of the request, provide, or arrange for the insurer to provide to City, complete certified copies of all insurance policies required under this Agreement. City's failure to make such request shall not constitute a waiver of the right to require delivery of the policies in the future.

(i) Additional Insured Endorsements. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 20 10 10 01 and CG 20 37 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Coverage shall be at least as broad as CG 20 10 04 13.

(j) Reinstatement. If any insurance policy or coverage required hereunder is canceled or reduced, Developer shall, within five (5) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Developer's expense, and Developer shall promptly reimburse City for such expense upon receipt of billing from City.

(k) Primary Coverage; Waiver of Subrogation; Annual Aggregate Limits. All coverage shall be primary insurance and shall not be contributing with any insurance, or self-insurance maintained by City, and the policies shall so provide. Each insurance policy shall contain a waiver of subrogation for the benefit of the City. If any of the required insurance is provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs are included in such annual aggregate limit, such annual aggregate limit shall be three (3) times the occurrence limits specified above.

(l) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to reasonable approval by, City's Risk Manager. At the option of and upon request by City's Risk Manager, if the Risk Manager determines that such deductibles or

Exhibit A

retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects the Indemnitees or Developer shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses, or Developer shall provide the City with some other assurance of payment thereof reasonably acceptable to the City.

(m) Adjustments. The limits of the liability coverage and, if necessary, the terms and conditions of insurance, shall be reasonably adjusted from time to time (not less than every five (5) years after the Effective Date nor more than once in every three (3) year period) to address changes in circumstances, including, but not limited to, changes in inflation and the litigation climate in California. Within thirty (30) days following City's delivery of written notice of any such adjustments, Developer shall provide City with amended or new insurance certificates and endorsements evidencing compliance with such adjustments.

(n) Additional Insured Coverage; Liability Limits. For all liability insurance required by this Agreement, Developer (and Developer's contractors, as applicable) shall obtain endorsements that name the Indemnitees as additional insured in the full amount of all applicable policies, notwithstanding any lesser minimum limits specified in this Agreement. This Agreement requires Developer (and Developer's general contractor, as applicable) to obtain and provide for the benefit of the Indemnitees additional insured coverage in the same amount of insurance carried by Developer (or Developer's contractors, as applicable), but in no event less than the minimum amounts specified in this Agreement. In the event that Developer (or Developer's general contractor as applicable) obtains insurance policies that provide liability coverage in excess of the amounts specified in this Agreement, the actual limits provided by such policies shall be deemed to be the amounts required under this Agreement. Without limiting the foregoing, the limits of liability coverage specified in this Agreement are not intended, nor shall they operate, to limit City's ability to recover amounts in excess of the minimum amounts specified in this Agreement.

Exhibit A

Attachment No. 6

Grant Deed

Attachment No. 6

Exhibit A

RECORDING	REQUESTED	BY	)
AND WHEN RECORDED MAIL TO:			)
			)
City of Benicia			)
250 East L Street			)
Benicia, CA 95510			)
Attention: City Clerk			)
			)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

GRANT DEED

For valuable consideration, the receipt of which is hereby acknowledged:

The CITY OF BENICIA, a California municipal corporation (“**City**” or “**Grantor**”), hereby grants to EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Grantee**”), the real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto and incorporated herein by this reference (collectively the “**Site**”).

1. Grantor and Grantee are parties to a Disposition and Development Agreement dated for identification purposes as of _____, 20__ (“**DDA**”). The Site is conveyed subject to all matters of record. The Grantor and Grantee have executed a Memorandum of Disposition and Development Agreement (“**Memorandum of Agreement**”) and an Affordable Housing Covenant each dated concurrently herewith and recorded against the Site. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the DDA.

2. Grantee covenants by and for itself, its executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) 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 premises herein conveyed, nor shall the Grantee or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.

All deeds, leases or contracts made relative to the Site, the improvements thereon or any part thereof shall contain or be subject to substantially the following nondiscrimination clauses:

a. **In deeds:**

(1) “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons

Exhibit A

claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) 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 premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

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

b. In leases:

(1) “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 premises 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 premises herein leased.

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

Exhibit A

citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

- c. **In contracts:** “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 premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises.”

The provisions of this paragraph 2 shall run with the land and shall be contained in each subsequent grant deed conveying title to the Site to any subsequent owner.

3. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted by the DDA, provided, however, that any successor of Grantee to the Site shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor’s title was acquired by foreclosure, deed in lieu of foreclosure, trustee’s sale or otherwise.

4. The covenants against discrimination contained in paragraph 2 of this Grant Deed shall remain in perpetuity.

5. The covenants contained in this Grant Deed shall be binding on Grantee and its heirs, executors, successors and assigns and any successor in interest to the Site or any part thereof, and such covenants shall run in favor of the Grantor and its successors and assigns for the entire period during which such covenants and option shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants or option relate. The Grantor, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

6. In the event of any express conflict between this Grant Deed and the DDA, the provisions of this Grant Deed shall control.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers thereunto duly authorized as of the date noted below.

Exhibit A

GRANTOR:

CITY OF BENICIA, a California municipal corporation

By: _____
Mario Giuliani, City Manager
[Signature must be notarized]

Date: _____, 20____

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

The provisions of this Grant Deed are hereby approved and accepted by Grantee.

Exhibit A

GRANTEE:

**EDEN BENICIA SENIOR
INVESTORS LP**, a California limited
partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

By: EDEN HOUSING, INC.,
a California non-profit public benefit
corporation, its sole member/manager

By: _____
Andrea Osgood, Chief of Real
Estate Development and Executive
Vice President

[Signature must be notarized]

Date: _____, 20__

Exhibit A

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the Subdivision Map)

Exhibit A

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Exhibit A

Attachment No. 7

Certificate of Completion

Exhibit A

RECORDING REQUESTED BY)
 AND WHEN RECORDED MAIL TO:)
)
 City of Benicia)
 250 East L Street)
 Benicia, CA 95510)
 Attention: City Clerk)
)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

CERTIFICATE OF COMPLETION

THIS CERTIFICATE OF COMPLETION (“**Certificate of Completion**”) is made by the CITY OF BENICIA, a California municipal corporation (“**City**”), for the benefit of EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”), as of the date set forth below.

RECITALS

A. City and Developer have entered into that certain Disposition and Development (“**DDA**”) dated _____, 20__, a Memorandum of Agreement of which was recorded on _____, 20__, in the Official Records of Solano County as Instrument No. _____, concerning the redevelopment of certain real property (“**Site**”) situated in the City of Benicia, California, as more fully described in Exhibit A-1 and Exhibit A-2 attached hereto and made a part hereof. Pursuant to the DDA, City conveyed fee title to the Site to Developer or on or about _____, 20__.

B. City and Developer are also Parties to an [*Affordable Housing Covenant dated _____, 20__, recorded against the Site in the Official Records of Solano County as Instrument No. _____*] (“**Affordable Housing Covenant**”).

C. As provided in Section 310 of the DDA, City is required to furnish Developer or its successors with a Certificate of Completion upon satisfactory completion of the Project Improvements (as defined in Section 301 of the DDA). This Certificate of Completion is City’s conclusive determination of Developer’s satisfactory completion of the construction and development of the Project Improvements required by the DDA.

NOW, THEREFORE, City hereby certifies as follows:

1. The work of the Project Improvements to be constructed by Developer has been fully and satisfactorily completed in conformance with the DDA.

2. All affordable housing, use, maintenance, nondiscrimination and other covenants contained in the Affordable Housing Covenant shall remain in effect and enforceable according to their terms.

3. This Certificate of Completion shall not be deemed or construed to constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a

Exhibit A

mortgage, or any insurer of a mortgage, securing money loaned to finance the construction and development of the Project Improvements on the Site or portion thereof. This Certificate of Completion is not a notice of completion as referred to in section 3093 of the California Civil Code.

IN WITNESS WHEREOF, City has executed this Certificate of Completion this _____ day of _____, 20____.

CITY OF BENICIA, a California municipal corporation

By:_____

Print Name:_____

Its: City Manager

[notary acknowledgment required]

ATTEST:

City Clerk

Exhibit A

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the Subdivision Map)

Exhibit A

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

RESOLUTION NO. 26-1 (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA FINDING THE PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT FOR BENICIA SENIOR AFFORDABLE HOUSING CONSISTENT WITH THE BENICIA GENERAL PLAN.

WHEREAS, the City of Benicia is the owner of real property located at 187 East L Street, Benicia, CA (APNs: Parcel 1 0088-113-010, 0088-113-020 and 0088-113-030; Parcel 2 0088-141-060; and Parcel 3 0088-141-070) (“Senior Center Site”) and at an unaddressed parcel at East L Street and East 4th Street, Benicia, CA (APN 0088-124-130) (“Scout Property”); and

WHEREAS, the Scout Property was offered for disposition following completion of the “small parcel exemption” of Government Code sections 541221(f)(1)(B) and 54222.3 for lots smaller than 0.5 acres; and

WHEREAS, on October 29, 2024, the City Council adopted Resolution No. 24-119 and thereby declared the Senior Center Site exempt surplus land and on December 5, 2024 the State Department of Housing and Community Development (“HCD”) notified the City that HCD found that the Senior Center Site qualifies as exempt surplus land under Government Code Section 54221(f)(1)(F); and

WHEREAS, on January 6, 2025, the City issued Requests for Proposals for the development of affordable housing on the Scout Property and Senior Center Site; and

WHEREAS, Eden Benicia Senior Investors, LP (“Eden Housing”) was selected as the responsive bidder and has proposed a senior citizen housing development that would include: at least ninety (90) rental units in two buildings on the Senior Center Site and one building on the Scout Property all available to Extremely Low-, Very Low-, and Low-income households; two manager’s units (one on the Senior Center Site and one on the Scout Property); a cold shell build out of a new senior center of not less than 6000 square feet on the Senior Center Site; a 19,000 square foot pedestrian promenade open space, and potential for a replacement public restroom, and new podium and surface parking; and

WHEREAS, the proposed Disposition and Development Agreement (DDA, Exhibit A) would set forth the terms and conditions relating to the disposition of the Scout Property and Senior Center Site to Developer; the development and maintenance of the Project by Developer; and the imposition of covenants running with the land to ensure the long-term affordability of the units on the Site; and

WHEREAS, the Planning Commission, at a regular meeting on April 9, 2026 considered the DDA and accepted public comment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Benicia does hereby find:

The proposed disposition of the Senior Center Site and the Scout Property implement the Housing Element and are covered by the Environmental Impact Report (SCH Number 2022060021) (EIR) for the City of Benicia Housing Element and Safety Element Updates certified by the City on January 24, 2023, pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Code § 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §15000 et seq.). In addition, the disposition and the DDA are exempt pursuant to Sections 15194, 15312, and 15332 of the CEQA Guidelines, which apply to affordable housing, sales of surplus government property, and infill development. The proposed project is 100% affordable housing to be developed on approximately 2.75 acres of infill sites within the City of Benicia urbanized area. The property subject to the DDA has qualified for disposition under the Surplus Lands Act and is not located in an area of statewide, regional, or areawide concern identified in CEQA Guidelines Section 15206(b)(4).

BE IT FURTHER RESOLVED that the Planning Commission of the City of Benicia hereby finds that the DDA is consistent with the Benicia General Plan pursuant to Government Code Section 65402(a) as follows:

1. The DDA is consistent with Goal 2.1 of the Benicia General Plan by facilitating the development of housing for older adults within a core area of the community that is within the UGB and is well-served by transit, services and pedestrian infrastructure. The project will make efficient use of land and will be reviewed for consistency with the City's adopted policy and development standards, ensuring compatibility. The nearby library, sports, civic and recreational facilities, along with replacement of the Senior Center, will enhance the vibrancy and sense of community for the Civic Center area and provide a high quality of life for residents.
 - Community Development and Sustainability Goal 2.1: Preserve Benicia as a small-sized city.

"Small-sized city" refers to Benicia's open and uncluttered space, safe neighborhoods and streets, pedestrian-friendly streets, the "Main Street" character of First Street, open vistas of hills and water, historic sites and buildings, strong sense of community and civic pride, good schools, well developed community facilities including parks and a library, low-crime, small town atmosphere, and numerous community-wide celebrations, cultural events, and family-oriented activities.

 - Policy 2.1.1: Ensure that new development is compatible with adjacent existing development and does not detract from Benicia's small town

qualities and historic heritage (and to the extent possible contributes to the applicable quality of life factors noted above.)

“Compatible” means “capable of existing together without detrimental effects.” This policy applies broadly and citywide to residential and non residential uses. Its purpose is to ensure harmonious development in terms of intensity, and architectural character. It is not intended to restrict new buildings or additions to exact duplications of styles or heights; nor is it intended to limit new uses or densities to those found in adjacent existing development. This policy also is not intended to restrict the conversion of single-family dwellings to apartments if the parcel is zoned for multifamily use and if there are other multifamily uses nearby.

- Policy 2.1.2: Make efficient use of land in new development areas consistent with the surrounding neighborhood.
- Policy 2.1.7: The City shall promote compact urban development within the UGB (“Urban Growth Boundary”) and shall encourage development of public, semi public, active recreational, and all other uses deemed desirable for the community inside the UGB.

2. The DDA implements Goal 2.14 of the Benicia General Plan. The Scout Property is located in the Eastern Gateway Area and will be the first site development under the recently-adopted zoning framework. The DDA will facilitate development of multifamily uses, affordable to older adults, that increases overall housing supply and directly responds to the General Plan aspirations for this neighborhood.
 - Community Development and Sustainability Goal 2.14: Establish a mixed-use activity center with new multifamily housing and commercial uses in the Eastern Gateway Area,
 - Policy 2.14.2: Provide for a variety of housing types, affordable to a range of household incomes, including workforce housing, older adult housing, artist housing and a mix of rental and owner occupied units.
3. The DDA is consistent with Goal 3.6 of the Benicia General Plan because it will require that Eden Housing dedicate two areas for public art. This will enhance the Civic Center area as a node for public art, as such amenities already exist on art-benches and a mosaic wall mural at the library.
 - Community Identity Goal 3.6: Support and promote the arts as a major element in Benicia’s community identity.
 - Policy 3.6.3: Enhance public places with art.
 - Program 3.6.C: Work with developers and builders to incorporate public art into projects, where applicable.
4. The DDA is consistent with Goal 1 of the Benicia Housing Element and directly implements Program 1.16 because it facilitates the disposition and development of City-owned sites with at least 90 units of lower-income housing.

- Housing Element Goal 1: Benicia shall be an active leader in attaining the goals of the City's Housing Element.
 - Policy 1.05: The City will continue to provide incentives for affordable housing.
 - Program 1.16: The City will utilize City-owned sites to develop 100% affordable housing projects (including units in a range of sizes and types), mixed income housing projects and projects without affordable units. Nine of the City-owned sites (comprised of 17 total parcels) included in the sites inventory will require more focus through this program either because they include lower income units in the inventory or are non-vacant or because they require rezoning (opportunity sites). There are some additional vacant City-owned sites with moderate and/or moderate units assigned to them that are already suitably zoned. The City will make such parcels available to developers building affordable housing or otherwise ensure the development of housing on such sites. This process will begin with a review of assets to create a City-owned site affordable housing inventory (will include list of surplus properties) by December 31, 2023. The process to make City-owned sites available will include outreach to create partnerships with affordable housing developers that can maximize the opportunities and number of units. This will include facilitation of lot consolidation (as described in Program 1.15) on any city sites in the list below that could benefit from lot consolidation to create a project. This process will be undertaken by June 2024. The City will initiate the Surplus Lands Act (SLA) process to pursue affordable housing projects in the city. The City will require an affordability covenant recorded against the land stipulating a specified percent of the total units developed will be affordable to lower-income households, in accordance with State law. The City will comply with State law to implement the SLA process as follows:
 - The City will declare land "surplus" in accordance with the definition listed in Government Code, Section 54221, subdivision (b)(1).
 - The City will prepare and issue a Notice of Availability (NOA) to the required parties and provide 60 days to receive responses from interested parties.
 - The City will negotiate in good faith with any respondents for at least 90 days, prioritizing affordable housing uses in the order provided in Government Code section 54227.
 - The City will send the proposed disposition to the State for review.
 - The City will address any State findings, as needed.

- Upon final State approval, the City will execute a sale or lease of the land and record an affordability covenant.

Once a list of qualified developers is complete, the first three RFPs will be issued by the end of 2024, in order to begin construction within two years and complete within the housing element cycle period. Three more RFPs on additional City-owned sites will be issued by the end of 2026. Three additional RFPs will be issued by the end of 2028. The City-owned sites listed in the tables at the end of Chapter III and Appendix D (Table A and B) subject to this program are:

- Site 3: E Street Lot #1 – 19 units: 11 lower-income units, 4 moderate-income units, 4 above moderate-income units
- Site 4: E Street Lot #2 - 19 units: 11 lower-income units, 4 moderate-income units, 4 above moderate-income units
- Site 12: 356 East I Street - 4 units: 2 lower-income units, 1 moderate-income units, 1 above moderate-income units
- Site 13: Senior Center and Adjacent Land - 21 lower-income units
- Site 22: 612 East I Street - 6 total units: 3 moderate-income units, 3 above moderate-income units
- Site 23: 600 Block of East I Street - 9 total units: 4 moderate-income units, 5 above moderate-income units
- Site 32: Benicia Fire Museum Site - 13 lower-income units

5. The DDA is consistent with Goal 3 of the Benicia Housing Element because it would facilitate development of housing for seniors.

- Housing Element Goal 3: Accommodate the housing needs of special population groups.
 - Policy 3.01: Facilitate the development of shelters for the homeless, transitional and supportive housing, housing for seniors, and housing for persons with physical, developmental, or mental disabilities.

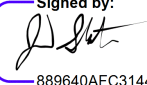
On motion of Commissioner Lyle and seconded by Commissioner Jessen , the above Resolution is introduced and adopted by the Planning Commission of the City of Benicia at a regular meeting of the Commission held on the 9th day of April 2026 and adopted by the following vote:

Ayes: Commissioners Donaghue, Gilpin-Hayes, Gorman, Jessen, Lyle, Marshall and Chair Slate

Noes: None

Absent: None

Abstain: None

Signed by:

889640AFC3144C2...

Jarrod Slate, Chair

4/14/2026

Date

Exhibit A

Exhibit A Disposition and Development Agreement

Exhibit A

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between the

CITY OF BENICIA,
a California municipal corporation,

and

EDEN BENICIA SENIOR INVESTORS LP

a California limited partnership,

Dated: _____, 2026

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- Attachment No. 1-B Senior Center Conveyance Parcel Site Map
- Attachment No. 2-A Senior Center Site Legal Description
- Attachment No. 2-B Scout Property Legal Description
- Attachment No. 2-C Senior Center Conveyance Parcel Legal Description
- Attachment No. 2-D Retained Site Legal Description
- Attachment No. 3 Memorandum of Agreement
- Attachment No. 4 Schedule of Performance
- Attachment No. 5 Affordable Housing Agreement & Declaration of Restrictive Covenants
- Attachment No. 6 Grant Deed
- Attachment No. 7 Certificate of Completion

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DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into by and between the CITY OF BENICIA, a California municipal corporation (“**City**”), and EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”), as of the Date of Agreement (as defined in Section 101).

RECITALS

The following recitals are a substantive part of this Agreement; capitalized terms used herein and not otherwise defined are defined in Section 101 of this Agreement:

A. City is the owner of that certain real property located at 187 East L Street, Benicia, CA (APNs: Parcel 1 0088-113-010, 0088-113-020 and 0088-113-030; Parcel 2 0088-141-060; and Parcel 3 0088-141-070) (“**Senior Center Site**”) as more particularly depicted on the Site Map attached hereto as Attachment-1-A (“**Site Map**”) and described in Attachment No.2-A (“**Senior Center Site Legal Description**”) and East L Street and East 4th Street, Benicia, CA (APN 0088-124-130) (“**Scout Property**”) as more particularly depicted on the Site Map and described in Exhibit 2-B (“**Scout Property Legal Description**”). The portion of the Senior Center Site that will be conveyed to Developer after the Subdivision Map records is referred to herein as the Senior Center Conveyance Parcel. The Senior Center Conveyance Parcel and the Scout Property are referred to collectively herein as the “**Site**”. The portion of the Senior Center Site that will be retained by City for the cold shell build out of a new senior center by Developer after the Subdivision Map records shall be referred to herein as the “**Retained Site**”. The approximate boundaries of the Senior Center Conveyance Parcel and the Retained Site are depicted on the map attached hereto as Attachment-1-B, the “**Senior Center Conveyance Parcel Site Map**”.

B. On October 29, 2024 the City Council adopted Resolution No. 24-119 and thereby declared the Senior Center Site exempt surplus land and on December 5, 2024 the State Department of Housing and Community Development (“**HCD**”) notified the City that HCD found that the Senior Center Site qualifies as exempt surplus land under Government Code Section 54221(f)(1)(F).

C. The City determined that the Scout Property was exempt surplus land under the small parcel exemption set forth in the Surplus Lands Act and provided notice of that determination in accordance with Government Code Section 54221, no comments were received in response to the notice, and on January 7, 2025, HCD notified the City that HCD found that the Scout Property qualifies as exempt surplus land under Government Code Section 54221(f)(1)(B).

D. On January 6, 2025, the City issued Requests for Proposals for the development of affordable housing on the Site. The City received one response from Developer.

E. Developer has proposed a senior citizen housing development as defined by Section 51.3 of the California Civil Code on the Site. The proposed development includes: approximately ninety seven (97), but in no event less than ninety (90) rental units in two buildings on the Senior Center Site and one building on the Scout Property all available to Extremely Low-, Very Low-, and Low-income households with a mix of predominantly one-bedroom units with a small percentage of studio units on the Scout Property; two 2-bedroom manager’s units (one on the Senior Center Site and one on the Scout Property); a cold shell build out of a new senior center of

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not less than 6000 square feet on the Senior Center Site; an approximately 19,000 square foot pedestrian promenade open space, and potential for a replacement public restroom, and new podium and surface parking (the “**Project**”).

F. City and Developer desire to enter into this Agreement to set forth the terms and conditions relating to: (i) the disposition of the Site to Developer; (ii) the development and maintenance of the Project by Developer; and (iii) the imposition of covenants running with the land to ensure the long-term affordability of the units on the Site.

G. The fulfillment of this Agreement is in the vital and best interests of City and the health, safety, and welfare of its residents and in accord with the provisions of applicable federal, state and local law.

AGREEMENT

NOW, THEREFORE, City and Developer hereby agree as follows:

100. DEFINITIONS; REPRESENTATIONS AND WARRANTIES

101. Definitions.

“*Adjusted for family size appropriate to the unit*” shall have the meaning set forth in Section 50052.5 of the California Health and Safety Code, as amended or any successor statute thereto, subject to the application of federal rules and regulations, if applicable, to financing sources for all or a portion of the Project, including applicable federal and TCAC regulations.

“*Affiliate of Developer*” means an entity or entities in which Developer retains more than fifty percent (50%) in the aggregate, directly or indirectly, of the ownership or beneficial interest and retains full management and control of the day-to-day affairs of the transferee entity or entities, either directly or indirectly through another entity, subject only to certain major events requiring the consent or approval of the other owners of such entity.

“*Affordable Housing Covenant*,” as defined in Section 405, means the Affordable Housing Agreement and Declaration of Restrictive Covenants, attached hereto as Attachment No. 5.

“*Affordable Rent*” shall mean rental rates no greater than that considered as affordable rent for Extremely Low-, Very Low-, and Low-Income Households, as applicable to the Eligible Household, adjusted for family size appropriate to the unit, determined in accordance with California Health and Safety Code Section 50053, as amended, or any successor statute thereto; provided, however, in no event shall the maximum affordable rent be higher than 20 percent below the median market rate rents for the neighborhood in which the Site is located; and provided, further that for lower income households with gross incomes that exceed 60 percent of the Area Median Income adjusted for family size appropriate to the unit, rental rates may be established at a level not to exceed 30 percent of Gross Income of the household. Notwithstanding the foregoing, if applicable to financing sources for all or a portion of the Project, during the fifteen (15) year tax credit compliance period under Internal Revenue Code Section 42, or such longer term of the regulatory agreement to be executed by TCAC and Developer and recorded against the applicable

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portion of the Project, the City hereby permits Developer to use the occupancy standards and rent levels required by TCAC.

“Affordable Unit” and ***“Affordable Units”*** are defined in Section 402.

“Agreement” means this Disposition and Development Agreement between City and Developer.

“Approvals” means the Project Approvals and any Subsequent Approvals.

“Area Median Income” means the median household income (adjusted for family size appropriate to the unit) of the Metropolitan Statistical Area in which Solano County is located, as established pursuant to California Health and Safety Code Sections 50093 and 50105, as amended or any successor statute thereto, or as applicable, the median income for Solano County, California, adjusted for family size appropriate to the unit, as determined by TCAC regulations.

“Certificate of Completion,” as defined in Section 310, means the document evidencing Developer’s satisfactory completion of construction and installation of the Project Improvements, attached hereto as Attachment No. 7.

“City” means the City of Benicia, a California municipal corporation.

“City Consultant Cost Deposit” is defined in Section 210.

“City Council” means the City Council of the City of Benicia.

“City Manager” means the City Manager of the City of Benicia, or their designee.

“City Municipal Code” means the Municipal Code of the City of Benicia.

“City Parties” is defined in Section 306.

“City’s Conditions Precedent to Closing” is defined in Section 205.1.

“Claims” means demands, lawsuits, liabilities, obligations, claims, damages, fines, penalties, expenses, costs, and cause of actions (including reasonable attorneys’ fees), whether at law or in equity.

“Closing” is defined in Section 202.4.

“Closing Costs” is defined in Section 202.1.

“Closing Date” is defined in Section 202.4.

“Commence Construction” and ***“Commencement of Construction”*** are defined in Section 303.

“Complete Construction” and ***“Completion of Construction”*** are defined in Section 303.

“Condition of Title” is defined in Subsection 203.

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“Construction Contract” is defined in Section 305.1.

“Construction Drawings” is defined in Section 304.2.

“Consultant Costs” is defined in Section 210.

“Conveyance” means the conveyance of fee title to the Site by City to Developer.

“County” means the County of Solano.

“Date of Agreement” means the date on which this Agreement is signed by the City Manager on behalf of City as indicated on the signature page hereof.

“Davis-Bacon” is defined in Subsection 308.2.

“Default” is defined in Section 601.

“Developer” means Eden Benicia Senior Investors LP, a California limited partnership.

“Developer Plans” is defined in Section 604.

“Developer’s Conditions Precedent to Closing” is defined in Section 205.2.

“Eligible Household” means an Extremely Low-Income Household, Very Low-Income Household, or Low-Income Household qualified in accordance with the terms of this Agreement, the Affordable Housing Covenant and Sections 50106, 50105, and 50079.5, respectively, of the California Health and Safety Code, as amended or any successor statute thereto.

“Escrow” is defined in Section 202.

“Escrow Agent” is defined in Section 202.

“Evidence of Financing” is defined in Section 501.2.

“Exceptions” is defined in Section 203.

“Extremely Low-Income Household” is defined in Section 50106 of the California Health and Safety Code, as amended or any successor statute thereto.

“Financial Assistance” is defined in Section 102.2.

“Grant Deed” means the document effecting the Conveyance to be recorded in the Official Records at Closing, attached hereto as Attachment No. 6.

“Hazardous Materials” means any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including any material or substance which is: (i) defined as a “hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a “hazardous substance” under

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Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) friable asbestos; (vii) polychlorinated biphenyls; (viii) listed under Article 9 or defined as “hazardous” or “extremely hazardous” pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20; (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1317); (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, (42 U.S.C. § 6903); or (xi) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.*, as the foregoing statutes and regulations now exist or may hereafter be amended.

“Implementing Agreements” is defined in Section 210.

“Interest” and **“Interests”** are defined in Section 103.1.

“Laws” means all laws, ordinances, statutes, codes, rules, regulations, orders and decrees, of the United States, the State of California, County, City, any other political subdivision in which the Site is located, and of any other political subdivision, City or instrumentality exercising jurisdiction over City, Developer, the Site or the Project Improvements, including all applicable state labor laws and standards (including prevailing wages, as applicable); all applicable public contracts requirements, zoning and development standards; building, plumbing, mechanical and electrical codes; all other provisions of the City Municipal Code; and all applicable disabled and handicapped access requirements, including the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.*

“Low-Income Household” is defined in Section 50079.5 of the California Health and Safety Code, as amended, or any successor statute thereto.

“Marketing Plan” is defined in Section 402.3.

“Memorandum of Agreement,” as defined in Section 704, means the Memorandum of Disposition and Development Agreement, attached hereto as Attachment No. 3.

“MMRPs” means the mitigation monitoring and reporting program: a) adopted by the City Council pursuant to Resolution No. 23-1 upon certification of the Final Environmental Impact Report for the Housing and Safety Element Updates (SCH No. 2022060021) which applies to both the Senior Center Site and the Scout Property; and b) adopted by the City Council pursuant to Resolution No. 22-3 with the adoption of the Initial Study and Mitigated Negative Declaration for the Eastern Gateway Mixed-Use Districts which applies to the Scout Property.

“Notice” is defined in Section 701.

“Official Records” means the official records of the Office of the County Clerk-Recorder of the County of Solano.

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“Option Price” is defined in Section 605.

“Outside Date” is defined in Section 202.4.

“Owner” means the owner of fee title to the Site.

“Owner’s Title Policy” is defined in Section 204.

“Planning Commission” means the City of Benicia Planning Commission.

“Pre-Approved Exceptions” is defined in Section 203.

“Preliminary Financing Report” is defined in Section 501.1.

“Project” is defined in Recital E.

“Project Approvals” is defined in Section 302.1.

“Project Improvements” means the improvements to be designed and constructed by Developer on the Site as provided herein and described in Section 301.

“Property Manager” is defined in Section 402.5.

“Property Manager Unit” is defined in Section 402.2.

“Public Financing” is defined in Section 501.1.

“Purchase Price” is defined in Section 201.

“Retained Site” is defined in Recital A and is depicted on the Senior Center Conveyance Parcel Site Map.

“Retained Site Legal Description” means the legal description of the Retained Site attached hereto as Attachment 2-D to be inserted after the recordation of the Subdivision Map.

“Schedule of Performance” means the Schedule of Performance attached hereto as Attachment No. 4, setting out the dates and/or time periods by which certain obligations of City and Developer set forth in this Agreement must be accomplished.

“Schematic Plans” is defined in Section 304.1.

“Scout Property” is defined in Recital A.

“Senior Center Site” is defined in Recital A. For the avoidance of doubt, all references in this Agreement to the Senior Center Site shall mean the portion of the Senior Center Site that is being conveyed to Developer after the Subdivision Map records.

“Senior Center Conveyance Parcel” is defined in Section 302.3.

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“Senior Center Conveyance Parcel Legal Description” means the legal description of the Senior Center Conveyance Parcel attached hereto as Attachment 2-C to be inserted after the recordation of the Subdivision Map.

“Senior Center Conveyance Parcel Site Map” means the map attached hereto as Attachment 1-B depicting the approximate boundaries of the Senior Center Conveyance Parcel and the Retained Site. The Senior Center Conveyance Parcel Site Map will be replaced with a map depicting the actual boundaries of the Senior Center Conveyance Parcel and the Retained Site after the recordation of the Subdivision Map.

“Site” is defined in Recital A.

“Site Improvements” is defined in Section 301.

“Site Legal Descriptions,” as defined in Recital A, means the legal description of the Senior Center Site and the Scout Property attached hereto as Attachment No. 2-A and Attachment No. 2-B respectively.

“Site Management Plan” is defined in Section 402.5.

“Site Map,” as defined in Recital A, means the map of the Site attached hereto as Attachment No 1.

“Soft Sources of Funding” means all funding sources necessary to construct the Project other than tax credits and senior construction and permanent loan financing.

“State Labor Code” is defined in Subsection 308.2(a).

“Subordination Agreement – Affordable Units” is defined in Section 405.

“Subsequent Project Approvals” is defined in Section 302.2.

“Subdivision Map” means a parcel map or tentative map in accordance with the Subdivision Map Act, Government Code Sections 66410, *et seq.*, and the Municipal Code to remove those portions of the Senior Center Site, that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, and which creates the Retained Site.

“Supportive Services Plan” is defined in Section 402.4.

“TCAC” means the California Tax Allocation Committee.

“Title Company” is defined in Section 202.

“Title Report” is defined in Section 203.

“Transfer” is defined in Section 605(d).

“Very Low-Income Household” is defined in Section 50105 of the California Health and Safety Code, as amended or any successor statute thereto.

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102. Representations and Warranties.

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

(a) **Authority.** City is a California municipal corporation, which has been authorized to transact business pursuant to action of the City Council of the City. City has full right, power and lawful authority to perform its obligations hereunder and the execution, performance and delivery of this Agreement by City has been fully authorized by all requisite actions on the part of 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 a breach under any contract, agreement or order to which City is a party or by which it is bound.

(c) **Litigation.** To the best of City's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Site or any portion thereof, at law or in equity before any court or governmental entity, domestic or foreign.

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

(a) **Authority.** Developer is a limited partnership, duly organized under, and qualified to do business and in good standing under, the laws of the State of California. Developer has full right, power and lawful authority to perform its obligations hereunder and the execution, performance and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of 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 a breach under any contract, agreement or order to which Developer is a party or by which it is bound.

(c) **No Developer Bankruptcy.** Developer is not the subject of any voluntary or involuntary bankruptcy proceeding, and there has been no general assignment or general arrangement for the benefit of any of Developer's creditors, and no trustee or receiver has been appointed to take possession of substantially all of the assets of Developer.

(d) **No City Member Financial Interest.** No member, official or employee of Developer has any personal interest, direct or indirect, in this Agreement, the Site, the Project Improvements to be constructed thereon, or in any other development project or business venture in which Developer is the controlling or managing member, general partner or majority shareholder.

(e) **Need for Financial Assistance.** The Project Improvements are not financially feasible without the Conveyance of the Site to Developer pursuant to the provisions set forth in Section 201 (the "**Financial Assistance**"). The pro forma dated April 7, 2025, which supports Developer's need for Financial Assistance is true, correct and complete in all material respects as of the date of the pro forma.

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102.3 Material Changes. Until the issuance of a Certificate of Completion for the Project Improvements, Developer, upon learning of any fact or condition that would cause any of the warranties and representations in Section 102 not to be true in material respects, shall give written notice of such fact or condition to City within five (5) days of Developer learning such fact or condition.

103. Prohibition Against and Limitations on Change in Ownership, Management and Control of Developer.

103.1 General. The qualifications and identity of the Developer are of particular concern to City. It is because of such demonstrated qualifications and identity that City has entered into this Agreement with Developer. No voluntary or involuntary successor in interest of Developer shall acquire any interest in the Site or Project Improvements or any portion thereof, or any rights or powers under this Agreement (each of the foregoing is referred to herein as an “**Interest**” and collectively as “**Interests**”), except as expressly set forth herein. It is expressly stipulated and agreed that any assignment, sale, transfer or other disposition of all or any portion of the Site or any interest therein or any rights or powers under this Agreement in violation of this Section 103 shall be null, void and without effect and shall be ineffective to relieve Developer of its obligations under this Agreement. After issuance of the Certificate of Completion, this Section 103 shall no longer apply and the restrictions on transfer shall be as set forth in the Affordable Housing Covenant.

103.2 Assignment.

(a) Except for pre-approved transfers described in Section 103.3, prior to issuance of a Certificate of Completion with respect to the Project Improvements, Developer shall not assign or transfer any Interest without the prior written approval of the City Manager, in their sole discretion. The City Manager shall have the right to disapprove any transfer or assignment that would materially diminish or otherwise materially impair the ability of Developer to fulfill its duties and obligations under this Agreement.

(b) Developer shall promptly notify City in advance of any proposed transfer or assignment of any Interest. The City Manager shall approve or disapprove the requested transfer or assignment within sixty (60) days after receipt of a written request for approval, together with such documentation as may be reasonably requested by the City Manager in order to evaluate the proposed assignee’s/transferee’s experience and qualifications, including all loan documents in connection with any proposed financing or refinancing and all documentation which the City Manager determines is reasonably necessary to evaluate the proposed transaction and the proposed assignee’s/transferee’s experience and qualifications. Notice of a proposed transfer or assignment shall not be required with respect to those pre-approved transfers listed in Subsections 103.3(b) or 103.3(d). While pre-approved transfers described in Subsections 103.3(a), 103.3(c) and 103.3(e) do not require the prior approval of the City, Developer is required to provide notice of a proposed transfer or assignment of those pre-approved transfers described in Subsections 103.3(a), 103.3(c) and 103.3(e).

(c) In addition, Developer shall deliver to the City Manager a proposed written assignment and assumption agreement in which the assignee would expressly agree to assume all rights and obligations of Developer under this Agreement which arise after the effective date of the assignment, and in which the assignee would agree to assume, or Developer would

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expressly remain responsible for, all performance of Developer which arose prior to the effective date of the assignment. The assignment and assumption agreement shall be in a form reasonably acceptable to City's legal counsel. Promptly following the date the assignment becomes effective, Developer shall deliver to City a fully executed counterpart of the assignment and assumption agreement.

103.3 Pre-Approved Transfers. Notwithstanding any other provision of this Agreement to the contrary, City approval of a transfer or assignment of any Interest shall not be required in connection with any of the following:

(a) Subject to Developer submitting and obtaining City's approval of the assignment and assumption agreement referred to in Subsection 103.3(c) any transfer or assignment of any Interest to an Affiliate of Developer;

(b) The granting of temporary or permanent easements or permits to facilitate development of the Project Improvements;

(c) Any mortgage, deed of trust, or assignment for purposes of financing construction (including design, planning, permitting, remediation, site preparation and horizontal and vertical construction) of the Project Improvements;

(d) Leasing or rental of Affordable Units to Eligible Households at Affordable Rents;

(e) Subject to Developer submitting and obtaining City's approval of the assignment and assumption agreement referred to in Subsection 103.3(c), a transfer of Developers ownership interests into an entity in which Developer maintains full management and control of the day-to-day affairs of the transferee entity or entities, either directly or indirectly through another entity, and which transfer is completed only for the purpose of facilitating financing for the Project Improvements and

(f) The admission of limited partners to the Developer in connection with tax credit financing, and any subsequent transfer of such limited partnership interests, including any transfer of stock or equity in the limited partners that does not change management or operational control of the Project Improvements.

In the event of an assignment or transfer by Developer under Subsection 103.3(a), 103.3(c), or 103.3(e) not requiring City's prior approval, Developer nevertheless agrees that it shall give at least sixty (60) days prior written Notice to City of such assignment or transfer. In addition, City shall be entitled to review such documentation as may be reasonably required by the City Manager for the purpose of determining compliance of such assignment or transfer with the requirements of Subsection 103.3(a), 103.3(c) or 103.3(e).

103.4 Mortgagee Protection. Nothing in this Section 103 or elsewhere in this Agreement shall prohibit (i) the sale or transfer of all or any portion of the Site or Project Improvements through foreclosure of a mortgage or deed of trust permitted pursuant to Subsection 103.3(c), (ii) the transfer of all or any portion of the Site to the holder of such permitted mortgage or deed of trust by deed in lieu of foreclosure, or (iii) the transfer of all or any portion of

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the Site by any such holder subsequent to acquisition by foreclosure or deed in lieu, so long as such transfer complies with Section 311.

200. CITY DISPOSITION OF THE SITE TO DEVELOPER

201. Purchase and Sale of the Site. Developer shall purchase the Site from City and City shall sell the Site to Developer in accordance with and subject to all the terms, covenants, and conditions of this Agreement for the sum of One Dollar (\$1.00) (“**Purchase Price**”).

202. Escrow. Within the time set forth in the Schedule of Performance, City shall open escrow (“**Escrow**”) with Old Republic Title Company in Oakland “**Escrow Agent**” or “**Title Company**”), for Conveyance of the Site to Developer.

202.1 Closing Costs. Any and all usual fees, charges, and costs chargeable by Escrow Agent for the Escrow, including the costs of the premium for the Title Policy and any endorsements thereto, recording fees, and documentary transfer taxes, if any, due with respect to the Conveyance of the Site (collectively, the “**Closing Costs**”), shall be paid by Developer.

202.2 Supplemental Escrow Instructions. Prior to Conveyance of the Site to Developer, the parties shall submit appropriate supplemental escrow instructions to Escrow Agent for the close of the Escrow in accordance with the terms and conditions of this Agreement. The parties shall use reasonable good faith efforts to close Escrow in the shortest possible time. Insurance policies for fire or casualty are not to be transferred, and City will cancel its own policies, if any, after the Closing. All funds received in the Escrow shall be deposited in interest-bearing accounts for the benefit of the depositing party in any state or national bank doing business in the State of California. All disbursements shall be made by check or wire transfer from such account. The Closing shall take place when both City’s and Developer’s Conditions Precedent to Closing as set forth in Section 205 hereof have been satisfied or waived by the party benefitted by such condition. Escrow Agent is instructed to release City’s escrow closing and Developer’s escrow closing statements to the respective parties.

202.3 Authority of Escrow Agent. Escrow Agent is authorized to, and shall:

(a) **Title Policy.** Pay and charge Developer for the premium of the Owner’s Title Policy as set forth in Section 204 hereof and any amount necessary to place title in the condition necessary to satisfy Section 203 of this Agreement.

(b) **Endorsements.** Pay and charge Developer for any endorsements to the Title Policy that are requested by Developer as set forth in Section 204 hereof.

(c) **Fees.** Pay and charge Developer for the Closing Costs.

(d) **Purchase Price.** Deliver the Purchase Price to City.

(e) **Grant Deed.** Record the Grant Deed conveying fee title to the Site to Developer.

(f) **Memorandum of Agreement.** Record the Memorandum of Agreement against the Site.

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(g) **Affordable Housing Covenant.** Record the Affordable Housing Covenant against the Site.

(h) **Subordination Agreement – Affordable Units.** Record the Subordination Agreement – Affordable Units against the Site.

(i) **Disbursement.** Disburse funds and deliver and record the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant, Subordination Agreement – Affordable Units when both Developer’s and City’s Conditions Precedent to Closing have been fulfilled or waived in writing by Developer and/or City, as applicable.

(j) **Other Actions.** Do such other actions as necessary, including obtaining the Owner’s Title Policy, to fulfill its obligations under this Agreement.

(k) **Additional Documents.** Direct City and Developer to execute and deliver any instrument, affidavit, and statement, and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act and regulations promulgated thereunder. City shall execute a Certificate of Non-Foreign Status by individual transferor and/or a Certification of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act as may be required by Escrow Agent, on the form to be supplied by Escrow Agent.

(l) **Closing Statement.** Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

202.4 Closing. The Conveyance of the Site by City to Developer shall take place within ten (10) days after the satisfaction or waiver, as applicable, of all of City’s and Developer’s Conditions Precedent to Closing as set forth in Section 205, below. “**Closing**” shall mean the time and day the Grant Deed is filed for record in the Official Records of Solano County. The “**Closing Date**” shall mean the date on which the Closing occurs. If, for any reason, Closing has not occurred prior to June 30, 2028 (“**Outside Date**”), this Agreement shall automatically terminate and, thereafter, neither party shall have any further rights or obligations hereunder except for those provisions which by their terms survive expiration or termination of this Agreement; however, the foregoing notwithstanding, if Developer has secured all Soft Sources of Funding and submitted an application for tax credit financing on or prior to June 30, 2028, the Outside Date shall automatically be extended to June 30, 2029. Notwithstanding Section 702 below, the Outside Date is not subject to extension for any enforced delays.

202.5 Closing Procedure. Escrow Agent shall close Escrow for the Site as follows:

(a) **Grant Deed.** Record the Grant Deed conveying fee title to the Site to Developer in the Official Records, with instructions to deliver the Grant Deed to Developer.

(b) **Memorandum of Agreement.** Record the Memorandum of Agreement against the Site in the Official Records immediately following recordation of the Grant Deed.

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(c) **Affordable Housing Covenant.** Record the Affordable Housing Covenant against the Site in the Official Records immediately following recordation of the Memorandum of Agreement.

(d) **Subordination Agreement – Affordable Units.** Record the Subordination Agreement – Affordable Units against the Site in the Official Records immediately following recordation of the Affordable Housing Covenant.

(e) **Purchase Price.** Deliver the Purchase Price to City.

(f) **Owner's Title Policy.** Instruct the Title Company to deliver the Owner's Title Policy to Developer.

(g) **Informational Reports.** File any informational reports required by Internal Revenue Code section 6045(e), as amended, and any other applicable requirements.

(h) **FIRPTA Certificate.** Deliver the FIRPTA Certificate, if any, to Developer.

(i) **Accounting.** Forward to both Developer and City a separate accounting of all funds received from and disbursed to each party and conformed copies of all executed and recorded or filed documents deposited into Escrow, with such recording and filing date and information endorsed thereon.

203. Review of Title. City shall cause Title Company to provide Developer with a standard preliminary title report for the Site (the "**Title Report**") together with legible copies of the documents underlying the exceptions set forth in the Title Report ("**Exceptions**") within the time set forth in the Schedule of Performance. Further, within the time set forth in the Schedule of Performance, Developer shall cause a survey of the Site to be prepared by a licensed civil engineer, certified to Title Company, Developer and City, sufficient to enable Title Company to issue the Owner's Title Policy at Closing. Developer shall have the right to reasonably approve or disapprove the Title Exceptions; provided, however, Developer hereby approves the following Exceptions which shall be referred to herein as the "**Pre-Approved Exceptions**":

- (a) The lien of any non-delinquent property taxes and assessments;
- (b) The conditions, including repurchase option, set forth in the Grant Deed;
- (c) The Memorandum of Agreement;
- (d) The Affordable Housing Covenant;
- (e) Matters created by, through, or under Developer, including, but not limited to, a parking easement deed, pedestrian promenade easement deed and any other easements or agreements required to be recorded against the Site in the Official Records prior to issuance of a certificate of occupancy for the Site Improvements; and

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(f) Such other exceptions to title as may hereafter be mutually approved by City and Developer.

Within the time set forth in the Schedule of Performance, Developer shall give written Notice to City, Title Company and Escrow Agent of Developer's approval or disapproval of any of the Exceptions (except the Pre-Approved Exceptions). Developer's failure to give written disapproval of the Exceptions within such time limit shall be deemed approval of the Exceptions. If Developer notifies City of its disapproval of any Exceptions, City shall have the right, but not the obligation, to cause any disapproved Exceptions to be removed within sixty (60) days after receiving written Notice of Developer's disapproval or provide assurances satisfactory to Developer that such Exceptions will be removed on or before the Closing. City's failure to notify Developer within such sixty (60) day period shall be deemed an election not to remove the disapproved Exceptions. City's election not to remove any disapproved Exceptions shall not be a Default under the provisions of this Agreement. If City cannot or does not elect to remove any of the disapproved Exceptions within such sixty (60) day period, Developer shall have ten (10) days after the expiration of such sixty (60) day period to either give City written Notice that Developer elects, in its sole discretion, to proceed with the purchase of the Site subject to the disapproved Exceptions or to give City written Notice that Developer elects to terminate this Agreement. The Exceptions to title approved by Developer as provided herein shall hereinafter be referred to as the "**Condition of Title.**" If any Exceptions other than Pre-Approved Exceptions are reported by the Title Company after Developer has approved the Condition of Title for the Site pursuant to the foregoing procedures, then any such new Exception shall be subject to the same procedures for review and approval set forth above for Exceptions constituting the Condition of Title. Notwithstanding the foregoing, upon the Date of Agreement until the Closing, the City shall not further encumber the Site with any new liens or encumbrances without the prior written consent of the Developer, which consent will not be unreasonably withheld.

204. Title Insurance. Concurrently with recordation of the Grant Deed conveying to Developer fee title to the Site, the Title Company shall issue to Developer an ALTA owner's policy of title insurance in an amount equal to the fair market value of the Site ("**Owner's Title Policy**"), together with such endorsements as are reasonably requested by Developer, insuring that title to Developer's interest in the Site acquired as of the date of issuance of the Owner's Title Policy is vested in Developer. Title Company shall provide City with a copy of the Owner's Title Policy. The premium for the Owner's Title Policy, plus any additional costs, including the cost of the survey, if prepared, and any endorsements requested by Developer shall be borne by Developer.

205. Conditions of Closing. The Closing is conditioned upon the satisfaction of the following terms and conditions within the times designated below:

205.1 City's Conditions of Closing. City's obligation to proceed with the Closing of the Conveyance of the Site is subject to the fulfillment or waiver by City of each and all of the conditions precedent described below ("**City's Conditions Precedent to Closing**"), which are solely for the benefit of City, and which shall be fulfilled or waived within the time periods provided for herein:

(a) **No Default.** Prior to the Closing, Developer shall not be in Default under the terms of this Agreement, no event shall have occurred which with the passage of time

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or giving of notice or both would constitute a Default hereunder, and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

(b) Execution of Documents. Developer shall have (i) executed and acknowledged the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant and any other documents required hereunder and delivered such documents into Escrow, and (ii) caused its lienholders to execute and acknowledge the Subordination Agreement – Affordable Units and deliver such documents into Escrow.

(c) Purchase Price. Developer shall have delivered the Purchase Price into Escrow.

(d) Costs of Closing. Developer shall have delivered the Closing Costs into Escrow.

(e) Evidence of Financing. City shall have approved Developer's Evidence of Financing as provided in Section 501.2 hereof.

(f) Insurance. Developer shall have provided proof of insurance as required by Section 306 hereof.

(g) General Contractor/Construction Contract. City shall have approved Developer's general contractor and the Construction Contract as provided in Section 305.1 hereof.

(h) Construction Loan Closing. Developer's construction loan(s) shall have closed or shall be ready to close concurrently with the Closing.

(i) Permits and Land Use Approvals. Developer shall have obtained all City and other governmental permits and land use approvals required pursuant to Section 302 hereof and all other entitlements for the Project Improvements, and the period for administrative and legal challenge to such land use approvals and entitlements shall have expired and City shall be ready to issue building permits for the construction of the Project Improvements upon the payment of the applicable fees by Developer.

(j) Payment of Development Fees. Developer shall have paid all or be current on payments to City of all development fees due City pursuant to the Project Approvals to enable Developer to commence development and construction of the Project Improvements unless City has otherwise agreed in writing to defer Developer's payment of development fees to the issuance of a certificate of occupancy for the Project.

205.2 Developer's Conditions of Closing. Developer's obligation to proceed with the Conveyance of the Site is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent described below ("**Developer's Conditions Precedent to Closing**"), which are solely for the benefit of Developer, and which shall be fulfilled or waived within the time periods provided for herein:

(a) No Default. Prior to the Closing, City shall not be in Default of any of its obligations under the terms of this Agreement, no event shall have occurred which with the

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passage of time or giving of notice or both would constitute a Default hereunder, and all representations and warranties of City contained herein shall be true and correct in all material respects.

(b) Evidence of Financing. City shall have approved Developer's Evidence of Financing as provided in Section 501.2 hereof.

(c) General Contractor/Construction Contract. City shall have approved Developer's general contractor and the Construction Contract as provided in Section 305.1 hereof.

(d) Execution of Documents. City shall have authorized, executed and acknowledged the Grant Deed, Memorandum of Agreement, Affordable Housing Covenant, and any other documents required hereunder, and delivered such documents into Escrow.

(e) Review and Approval of Title. Developer shall have reviewed and approved the Condition of Title, as provided in Section 203 hereof.

(f) Developer's Approval Notice. Developer shall have delivered Developer's Approval Notice to the City in accordance with Section 208.1 hereof.

(g) Owner's Title Policy. The Title Company shall, upon payment of Title Company's regularly scheduled premium, be ready to issue the Owner's Title Policy upon recordation of the Grant Deed in accordance with Section 204 hereof.

(h) Subdivision Map. The Subdivision Map shall have been recorded.

206. Property Taxes and Assessments. Ad valorem taxes and assessments levied, assessed or imposed on the Site for any period prior to Conveyance of the Site to Developer shall be borne by City. Ad valorem taxes and assessments levied, assessed or imposed on the Site for the period after Conveyance thereof shall be borne by Developer.

207. Access to Site Prior to Conveyance of Site. Prior to Conveyance of the Site, City and Developer shall cooperate to enable representatives of Developer to obtain the right of access to all portions of the Site for the purpose of obtaining data and making surveys and tests, including the investigation of the soils and environmental condition of the Site. Developer agrees to notify City in writing at least twenty-four (24) hours prior to undertaking any studies or work upon the Site. City may require Developer to execute one or more right of entry agreements satisfactory to City's legal counsel prior to commencing such studies or work. Any preliminary work by Developer shall be undertaken only after securing all required insurance under this Agreement and any and all necessary permits from the appropriate governmental agencies. Developer shall indemnify, defend, protect and hold City and City Parties harmless from any claims, losses, liabilities and damages arising out of the activities of Developer as set forth in this Section 207. In addition, in the event that Developer causes any damage to any portion of the Site or the existing improvements thereon, Developer shall promptly restore the Site and existing improvements thereon as nearly as possible to the physical condition existing immediately prior to Developer's entry onto the Site.

208. Condition of the Site.

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208.1 Investigation of the Site. Prior to the Effective Date, Developer and Developer's authorized representatives were granted access to the Site to conduct reviews and assessments of the physical and environmental condition of the Site and the condition of the existing improvements. City may require Developer to execute a right of entry agreement satisfactory to City prior to entry onto the Property for such purpose and shall require Developer to provide proof of liability insurance acceptable to City. Developer's inspection, examination, survey and review of the Site shall be at Developer's sole expense. Developer shall provide City with copies of all reports and test results promptly following completion of such reports and testing, including any reports Developer received prior to entering into this Agreement. Developer hereby agrees to notify the City 5 working days in advance of its intention to enter the Site and will provide workplans, drawings, and descriptions of any intrusive sampling it intends to do. Developer must keep the Site in a safe condition during its entry. Developer shall repair, restore and return the Site to its condition immediately preceding Developer's entry thereon at Developer's sole expense. Developer will not permit any mechanics liens, stop notices or other liens or encumbrances to be placed against the Site prior to Close of Escrow. Without limiting any other indemnity provisions set forth in this Agreement, Developer shall indemnify, defend (with counsel approved by City) and hold City and City Parties harmless from and against all Claims resulting from or arising in connection with entry upon the Site by Developer or Developer's agents, employees, consultants, contractors or subcontractors pursuant to this Section 208.1 except to the extent arising from the gross negligence or willful misconduct of the City and City Parties. Developer's indemnification obligations set forth in this Section 208.1 shall survive the Close of Escrow and the termination of this Agreement.

Developer shall have until 5:00 p.m. (Pacific Standard Time) on the day that is one hundred twenty (120) calendar days after the Date of Agreement (the "**Contingency Date**") in which to approve or disapprove, in Developer's sole and absolute discretion, any and all inspections, investigations, tests and studies set forth in this Section 208.1 by providing written notice to City ("**Developer's Approval Notice**"). In the event Developer determines the Property is not acceptable to Developer for any reason or no reason, Developer shall have the right to terminate this Agreement by delivering written Notice to City of its election to terminate pursuant to this Section 2.4.5 on or before the Contingency Date ("**Developer's Disapproval Notice**"). In the event Developer has not provided City, by the Contingency Date, with Developer's Approval Notice or Developer's Disapproval Notice, this Agreement shall automatically be deemed to have been terminated effective as of the Contingency Date, and thereafter neither party shall have any further rights or obligations hereunder except for those obligations which by their express terms survive the termination of this Agreement. If Developer timely provides Developer's Disapproval Notice or if this Agreement is deemed to have been terminated as provided above, upon such termination, each party shall promptly execute and deliver to Escrow Agent such documents as Escrow Agent may reasonably require to evidence such termination. The 120-calendar day period within which Developer is to perform its due diligence investigation of the Property is referred to herein as the "**Due Diligence Period**".

Developer acknowledges that City makes no representations or warranties with respect to the accuracy, completeness, methodology of preparation or otherwise concerning the contents of any information or reports made available to Developer regarding any inspections, engineering, environmental or other matters pertaining to the Site. Developer acknowledges that City has requested that Developer inspect fully all portions of the Site and investigate all matters relevant thereto and to rely solely upon the results of Developer's own inspections or other

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information obtained or otherwise available to Developer, rather than any information that may have been provided by City to Developer.

208.2 No Further Warranties as to Site; Release of City. Notwithstanding any provision of this Agreement to the contrary, the Site shall be conveyed by City to Developer in its “AS IS” condition, “WITH ALL FAULTS,” with no warranty expressed or implied by City regarding the presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Site for the development purposes intended hereunder. To the extent authorized by contract or law, City shall assign to Developer all warranties and guaranties with respect to the Site, if any, that City may receive from the prior owner of the Site.

Developer hereby waives, releases and discharges forever City and City Parties from all present and future Claims, known and unknown, arising out of or in any way connected with the condition of the Site or the existing improvements thereon or any Hazardous Materials on, under or about the Site or existing improvements, however they came to be placed there.

Developer is aware of and familiar with the provisions of section 1542 of the California Civil Code which provides 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.”

As such relates to this Section 208.2, Developer hereby waives and relinquishes all rights and benefits which it may have under section 1542 of the California Civil Code.

Developer Initials

209. Hazardous Materials.

209.1 Duty to Prevent Hazardous Materials Contamination. After the Conveyance, Developer shall take all reasonably necessary precautions to prevent the release of any Hazardous Materials onto or from the Site. Such precautions shall include compliance with all Laws with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with all Laws with respect to the disclosure, storage, use, removal and disposal of Hazardous Materials.

209.2 Environmental Inquiries. If a release of any Hazardous Materials onto or from any portion of the Site occurs at any time after the Conveyance, Developer shall, as soon as possible after the release, furnish to City a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release.

209.3 Environmental Indemnification. From and after the Conveyance, Developer shall indemnify, defend and hold City and City Parties harmless from and against any Claims resulting from, arising out of, or based upon the release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such

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Hazardous Materials to or from, the Site in violation, or alleged violation, of any Laws, occurring from and after the Conveyance, except that the foregoing indemnity obligation shall not apply to any matters that arise out of the active negligence or willful misconduct of City and City Parties nor shall it apply to any matters arising from any conditions on the Site prior to the Conveyance. This indemnity shall include any damage, liability, fine, penalty, parallel indemnity, cost or expense arising from or out of any claim, action, suit or proceeding for bodily injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, trespass, contamination, leak, spill, release or other adverse effect on the environment.

210. City Consultant Cost Deposit. Developer acknowledges that the City shall expend resources negotiating, preparing, and implementing this Agreement and performance of the tasks required of City in the Schedule of Performance. Within the time established in the Schedule of Performance, Developer shall submit to the City an initial deposit of TWENTY-FIVE THOUSAND Dollars (\$25,000) (“**City Cost Deposit**”). The City Consultant Cost Deposit shall be placed in a separate City deposit account and any subsequent deposits shall be added to the total City Consultant Cost Deposit amount and may be used in accordance with this Agreement.

The City Cost Deposit shall be used by the City to pay for the City’s third party consultant costs and expenses incurred to negotiate and prepare this Agreement and negotiate and prepare agreements necessary to implement this Agreement (collectively, the “**Implementing Agreements**”). Such costs may include, but are not limited to, reasonable fees and services of third party consultants and attorneys, selected by the City in its sole discretion, relating to the negotiation and preparation of this Agreement and the negotiation and preparation of the Implementing Agreements (“**Consultant Costs**”). The total Consultant Costs Developer is required to pay under this Agreement shall not exceed \$150,000. Developer acknowledges that City’s Consultant Costs include its City attorney services provided by the firm of Burke Williams & Sorensen, LLP, who will assist City with the negotiation and preparation of this Agreement and the Implementing Agreements.

300. DEVELOPMENT OF SITE

301. Project Improvements. The “**Project Improvements**” to be constructed and developed by Developer on-Site and off-Site shall generally consist of and be defined as the following. Developer agrees that despite the fact that the Senior Center Site and the Scout Property are not contiguous the two properties shall be operated as one project and residents of the Scout Property shall have full use of and access to the same amenities and benefits as residents of the Senior Center Site.

301.1 Senior Center Site Improvements. The improvements on the Senior Center Site shall generally include:

(a) Two residential buildings containing a mix of studio and one-bedroom residential units with the exception of the one (1) two-bedroom Property Manager’s Unit, the residential units shall be restricted for rental to and occupancy by Low Income Households, Very Low Income Households, and Extremely Low Income Households, at an Affordable Rent, for a period of fifty five (55) years, as more particularly set forth in the Affordable Housing Covenant attached hereto as Attachment 5. The actual mix of size/type of residential unit and

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applicable affordability level shall be determined by the Parties no later than submittal of applications for the required land use entitlements in accordance with Section 302.1, and shall be reflected in the Affordable Housing Covenant recorded in the Official Records pursuant to Section 202.5. In no event shall the number of units constructed on the Senior Center Site and the Scout Property combined be less than 90 units.

(b) The demolition of the existing Senior Center on the Senior Center Site and the construction of a replacement Senior Center cold shell. The City shall own the Senior Center cold shell in fee, and Developer shall ensure the creation of a separate legal parcel for the Senior Center cold shell prior to or at Closing. Prior to Closing, the City and Developer shall mutually determine, subject to the Project's lender or investor requirements, whether to have the City retain its fee interest in the Retained Site throughout or to have it conveyed to Developer along with the Senior Center Site and then conveyed back to the City upon completion (but in any event, prior to the issuance of the Certificate of Completion). The replacement Senior Center cold shell shall be no less than 6,000 square feet and shall be located on the ground floor of Building A which will occupy the site of the existing Senior Center. Parking for the Senior Center shall be included in the parking required for the Project and the Senior Center shall have a separate exterior entrance. The replacement Senior Center shall be delivered to the City as a cold shell which shall include rough-in utilities for no less than the number of restrooms and stalls in the existing Senior Center, kitchen, and program space, exposed walls studs, unfinished floors, and an exposed ceiling. Electrical, mechanical, and plumbing systems will be stubbed out for future uses, including restrooms, an office, storage, program space, and a kitchen to accommodate the Meals on Wheels program. Within the time set forth in the Schedule of Performance Developer shall submit to the City a preliminary cost estimate reasonably acceptable to the City Manager for the completion of the improvements to the Senior Center necessary to obtain a certificate of occupancy. Once the cold shell of the Senior Center has been completed the City shall be provided with access to the Senior Center to complete the City's interior improvements. All exterior maintenance and repair of the building in which the Senior Center is located along with all related exterior improvements including pathways, parking, and landscaping shall be the responsibility of the Developer, provided, however, that City shall share in the ongoing maintenance costs for the shared amenities, as shall be further set forth in the REA (defined below). There shall be no restrictions on the City's use of the Senior Center, including the right of the City to lease or rent the Senior Center to third parties for private events that may have amplified music and that may serve alcohol. Notwithstanding the foregoing, the City agrees that its use of the Senior Center shall be subject to reasonable operation rules appropriate for a residential development, including but not limited to the requirement that the hours that the Senior Center is available for use will be the same as the hours of the adjacent public library. Prior to completion of the Senior Center, Developer and City shall enter into an operating and management agreement that will set forth the reasonable operation rules for the Senior Center, which rules shall be subject to the City's prior consent, which consent shall not be unreasonably withheld or delayed. The Senior Center shall be depicted on the Schematic Plans and Construction Plans and be subject to approval by the City Manager, which approval shall not be unreasonably withheld, including the location of the mechanical and plumbing systems. On or prior to Closing, City and Developer shall enter into a reciprocal easement agreement ("REA") that will address the shared access and use of the shared building systems and exterior amenities for the Senior Center Site, including but not limited to ensuring City has access for the drop off loop in front of the Senior Center and the City gym.

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(c) In addition to the number of parking spaces required for the Project, Developer shall also construct a minimum of 110 parking spaces in the surface parking lot and the a podium parking structure on the Senior Center Site. A portion of the surface parking spaces and the parking spaces in the podium parking structure shall all be accessible both by residents of the Project and the public, with the exact number of overall spaces, as well as the exact number of spaces open to the public, to be mutually determined no later than submittal of applications for the required land use entitlements in accordance with Section 302.1. The Subdivision Map will include the dedication of a public access and use easement, in an agreement to be mutually agreed upon by the City and Developer no later than submittal of development applications for the required land use entitlements in accordance with Section 302.1.

(d) Developer shall construct an approximately nineteen thousand (19,000) square foot tree-lined pedestrian promenade designed as a town square (“**Pedestrian Promenade**”). Developer and City shall mutually determine prior to completion of the Subdivision Map whether the City will own the Pedestrian Promenade or whether the Developer will retain ownership of the Pedestrian Promenade, in which case Developer shall dedicate a public access and use easement to the City pursuant to an easement agreement to be mutually agreed upon by the City and Developer. In the event that the Developer owns the Pedestrian Promenade, City acknowledges that Developer may establish a list of rules and requirements regarding the use of the Pedestrian Promenade, which shall be subject to the prior consent of the City, which consent shall not be unreasonably withheld or delayed provided such rules and requirements are reasonable and consistent with rules and requirements applicable to other publicly accessed privately owned areas similar to the Pedestrian Promenade and provided further that such rules and requirements do not prevent public access to the adjacent public facilities during times that they are open and operating, except in the case of emergencies or dangerous conditions.

(e) In the event that Development of the Project results in the demolition of the existing public restroom located on K Street adjacent to the Senior Center Site Developer shall construct a replacement public restroom of at least the same number of square feet and amenities as the existing public restroom being demolished.

(f) Developer shall allow for the installation of public art at a minimum of two locations on the Senior Center Site the locations and details of which to be determined through Design Review.

(g) Developer shall also dedicate an easement to the City for the drop off loop in front of the Senior Center and the City gym. Easements shall also be dedicated to the City for storm drainage, waste water, and water facilities as set forth on the Subdivision Map.

301.2 Scout Property Improvements. The improvements on the Scout Property shall generally include:

(a) One residential building containing a mix of one-bedroom units and studios, and one (1) two-bedroom unit, and surface parking spaces in accordance with the Project Approvals. With the exception of the one two-bedroom (1) Property Manager’s Unit, the residential units shall be restricted for rental to and occupancy by Low-Income Households, Very Low-Income Households, and Extremely Low-Income Households, at an affordable rent, for a period of fifty (55) years, as more particularly set forth in the Affordable Housing Covenant

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attached hereto as Attachment 5. In no event shall the number of units constructed on the Scout Property and Senior Center Site combined be less than 90 units.

(b) The City plans to install frontage improvements on 4th Street and L Street adjacent to the Scout Property for the benefit of the Project. These improvements generally include curbs, gutters, and sidewalks and will include areas for the installation of landscaping by the Developer. The Developer shall be responsible for the maintenance and repair of these improvements and the landscaping. Notwithstanding the foregoing, the City is under no obligation to the Developer to install these improvements.

301.3 Project Improvements. Developer shall develop and construct the Project Improvements in accordance with this Agreement, the Approvals and any Conditions of Approval required by City, the MMRPs as applicable, and those plans, drawings and documents (including Construction Drawings) submitted by Developer and approved by City, as applicable, all as provided herein. All work of Project Improvements shall be performed in a first-class, workmanlike manner by qualified, professional contractor(s) duly licensed in California and in good standing under applicable Laws.

302. Development Approvals.

302.1 Project Approvals. Developer acknowledges that the execution of this Agreement by the City does not constitute City's approval for the Project and does not relieve Developer from the obligation to apply for and to obtain from the City and all other agencies with jurisdiction over the Property, all necessary approvals, entitlements, and permits for the construction of the Project (including design review and approval of the Subdivision Map, and the approval of the Project after compliance with the California Environmental Quality Act ("CEQA") and if applicable, NEPA), nor does it limit in any manner the discretion of the City or any other agency in the approval process (the "**Project Approvals**"). Developer shall submit an application or applications to the City for the Project Approvals including all information required by the City's application checklist within the time set forth in the Schedule of Performance. Developer shall pay when due all customary and reasonable fees and charges in connection with the processing of all applicable permits and approvals. Developer shall not commence any grading, demolition, or construction work related to the Project prior to issuance of building permits required for such work. Developer shall, at its sole cost, construct and install the Project Improvements in accordance with the Project Approvals, the MMRP, and any Conditions of Approval imposed in connection with such Project Approvals, any Subsequent Project Approvals, and the Construction Drawings to be submitted by Developer and approved by City as provided in Section 304.2.

302.2 Subsequent Project Approvals. Certain land use approvals, entitlements, and permits, may be necessary or desirable for implementation of the Project Improvements after issuance of the Project Approvals ("**Subsequent Project Approvals**").

302.3 Subdivision Map. Within the time set forth in the Schedule of Performance Developer shall prepare a plat map and legal description of the portion of the Senior Center Site to be conveyed by the City to the Developer removing those portions of the Senior Center Site that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, (the "**Senior Center Conveyance Parcel**") and the Retained Site. Developer shall, at its sole cost and expense, be responsible for preparation of all required surveys and maps to create

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the Senior Center Conveyance Parcel and the Retained Site as a separate legal parcels. The boundaries of the Senior Center Conveyance Parcel and the Retained Site are subject to the review and approval of the City Manager which approval will not be unreasonably withheld.

302.4 Green-Building Measures. Developer shall design the Project to meet the minimum green building measures required by any funding sources.

302.5 Underground Utilities. Developer shall use best efforts to avoid the placement of any permanent structures over existing or new public utilities. If unavoidable, developer shall relocate the impacted utilities or provide protection measures for impacted utilities to the satisfaction of the City Engineer at their cost.

302.6 Other City Uses. Developer acknowledges and agrees that numerous City uses and facilities operate in the immediate vicinity of the Site. Developer further acknowledges and agrees that development and construction of the Project Improvements will be done in a manner to minimize impacts to the other City uses and facilities including, the City Library, City Hall, City Police Department, City gymnasium, public tennis courts, and bocce ball courts.

303. Schedule of Performance. Subject to the provisions of Section 702 hereof, Developer shall commence and complete construction of the Project Improvements and satisfy all other obligations and conditions of this Agreement with respect thereto within the times established in the “**Schedule of Performance**,” attached hereto as Attachment No. 4. “**Commence Construction**” or “**Commencement of Construction**” shall be deemed to have occurred when City has issued one or more permits for the construction of the Project Improvements and Developer has commenced excavation and grading on the Site in reliance on the permits issued; and such date shall be memorialized in writing by the parties. “**Complete Construction**” or “**Completion of Construction**” shall be deemed to have occurred when Developer has completed the work of the Project Improvements in conformity with this Agreement and therefore has the right to submit a request for a Certificate of Completion to City pursuant to Section 310. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between Developer and the City Manager, and the City Manager is authorized to make such revisions from time to time as he or she deems reasonably necessary. The foregoing notwithstanding, the City Manager has no authority to revise the Outside Date without the consent and approval of the City Council.

304. City’s Review of Project Plans and Revisions.

304.1 Schematic Plans. Within the time set forth in the Schedule of Performance, Developer shall prepare and submit to City schematic plans which illustrate the overall development concept of the Project Improvements (“**Schematic Plans**”). Prior to the submittal of the Schematic Plans to the Planning Commission for design review the City Manager shall review and approve the Schematic Plans which approval shall not be unreasonably withheld or delayed. Developer agrees to cooperate with the City, at no cost to the Developer, to include the City’s interior improvements to the Senior Center as part of the Project plans, provided, however, that Developer shall not be responsible for any costs related to the interior improvements to the Senior Center beyond Developer’s obligation to provide the cold shell in accordance with Section 301.1.

304.2 Construction Drawings and Related Documents. Within the time set forth in the Schedule of Performance, Developer shall prepare and submit to City detailed

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construction drawings and plans with respect to the Project Improvements, including a grading plan, which shall be consistent with the Schematic Plans and be prepared by a registered civil engineer and/or licensed architect (“**Construction Drawings**”).

304.3 Revisions. If, after approval of the Construction Drawings, Developer desires to propose any material revisions to such Construction Drawings, it shall submit such proposed changes to City, and shall also proceed in accordance with any and all Laws regarding such revisions. If the Construction Drawings, as modified by the proposed material change, generally and substantially conform to the Schematic Plans and the Project Improvements, the City Manager shall review the proposed material change and notify Developer in writing within fifteen (15) days after submission to City as to whether the proposed change is approved or disapproved; provided, however, that the City Manager is authorized to and shall approve changes to the approved Construction Drawings provided such changes do not reduce the number or size of the Affordable Units or significantly reduce the quality of materials to be used, as determined by the City Manager in his or her reasonable discretion. In the event that the City Manager does not provide the written response within fifteen (15) days, Developer shall notify the City in writing of the lack of response and the City Manager shall have an additional fifteen days to provide the response; if no response is provided within the additional fifteen (15) day period the change will be deemed approved. Any and all change orders or revisions required by City and its inspectors which are required under City Municipal Code and all other applicable codes (e.g., Building, Plumbing, Fire, Electrical, etc.) and Laws shall be included by Developer in its Construction Drawings and completed during construction of the Project Improvements.

304.4 Consultation and Coordination. During preparation of the Construction Drawings, City staff and Developer shall hold progress meetings on an as-needed basis to coordinate the preparation, submission, and review of such Construction Drawings. City staff and Developer shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any documents to City can receive timely and thorough consideration.

304.5 Defects in Plans. City shall not be responsible to Developer or to any third parties in any way for (i) any defects in any Schematic Plans or Construction Drawings, (ii) any defects in any of the Project Improvements, or (iii) any structural or other defects in any work done according to the approved Schematic Plans or Construction Drawings.

305. Construction Requirements.

305.1 General Contractor; Construction Contract. Within the time established in the Schedule of Performance, Developer shall notify City of the Developer’s selection of a general contractor and the final construction contract (“**Construction Contract**”), which shall be a guaranteed maximum price contract in a form acceptable to City. The City Manager shall approve or disapprove the proposed general contractor and the Construction Contract for the Project Improvements within the time established in the Schedule of Performance. The City Manager shall not withhold approval of a proposed general contractor who in the reasonable opinion of the City Manager is financially capable and has the qualifications and experience to perform its duties and obligation under a guaranteed maximum price contract acceptable to City. Developer agrees to cooperate with the City in the City’s use of Developer’s contractor to construct the City’s interior improvements and build out of the Senior Center.

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305.2 Costs of Development and Construction. All costs of preparing the Site, and planning, designing, permitting, and constructing the Project Improvements shall be borne solely by Developer.

305.3 Construction Oversight. City may retain a third party consultant to monitor the construction, and ensure that Developer maintains adequate funding for completion of the Project Improvements.

305.4 Construction Reports. Upon Commencement of Construction and until Completion of Construction, Developer shall submit to City written progress reports of the construction within five (5) days following City's request (not to be made more frequently than once a month). The progress reports shall be in such form and detail as may reasonably be required by City for proper review and oversight of the Project Improvements, and shall include a reasonable number of construction photographs taken since the last submitted progress report to visualize progress on the construction of the Project Improvements.

306. Insurance Requirements. Developer shall take out and maintain, and/or shall cause its contractor to take out and maintain, throughout the term of this Agreement, a commercial general liability policy in an amount not less than Two Million Dollars (\$2,000,000) combined single limit, including contractual liability together with a comprehensive automobile liability policy in the amount of One Million Dollars (\$1,000,000), combined single limit. Such policy or policies shall be written on an occurrence form. During any period in which construction is being undertaken, Developer shall maintain or shall cause its contractor to maintain builder's all-risk insurance in an amount not less than the full insurable value of the Project Improvements under construction on a replacement cost basis; and Developer, shall cause to be furnished to City evidence reasonably satisfactory to City that any contractor with whom Developer has contracted for the performance of work on the Site carries workers' compensation insurance as required by law. Companies writing the insurance required hereunder shall be approved to conduct business in the State of California. Developer's insurance shall be placed with insurers with a current A.M. Best's rating of no less than A-:VII. Developer shall furnish appropriate certificate(s) of insurance evidencing the insurance coverage required hereunder, and City and its officers, elected and appointed officials, and employees (collectively, "**City Parties**") shall be named as additional insured parties under the liability policies required hereunder. The certificate of insurance shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination (ten (10) days advance notice in the case of cancellation for nonpayment of premiums), if the insurance carrier provides such notices in its normal course of business. Coverage provided hereunder by Developer shall be primary insurance and shall not be contributing with any insurance, self-insurance or joint self-insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of City. The required certificate and endorsements shall be furnished by Developer to City within the time provided in the Schedule of Performance, and throughout the term of the Agreement within ten (10) business days following City's request therefor.

307. Rights of Access. During the period of construction of the Project Improvements, representatives of City shall have the reasonable right of access to the Site, without charges or fees, at normal construction hours for the purposes of inspecting the Site and Project Improvements

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being constructed thereon and ensuring compliance with this Agreement, so long as City and its representatives comply with all safety and security rules. City and its representatives shall, except in emergency situations, notify Developer at least twenty-four (24) hours in advance of exercising its rights pursuant to this Section 307. Nothing herein shall be deemed to limit the ability of City to conduct code enforcement and other administrative inspections of the Site and Project Improvements in accordance with applicable Laws.

308. Compliance with Laws.

308.1 Compliance with Laws. Developer shall carry out the construction of the Project Improvements and all other work pursuant to this Agreement in conformity with all applicable Laws. All such work shall be performed by one or more qualified contractors duly licensed in and in good standing under the laws of the State of California.

308.2 Prevailing Wage Requirements.

(a) Developer acknowledges and agrees that the Project Improvements may constitute “public works” as defined in Labor Code Section 1720 in that such Project Improvements may involve construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds under Labor Code Section 1720, *et seq.* (“**State Labor Code**”); however, depending on Project Financing, the Project Improvements may nevertheless be exempt from the requirements of the State Labor Code. Accordingly, in the event the Project Improvements to be constructed remain subject to the requirements of the State Labor Code, Developer shall comply with all applicable State Labor Code requirements, including provisions requiring the payment of prevailing wages in connection with construction of the Project Improvements. If applicable, Developer shall require its general contractor to post at the Site prevailing wage rates for all applicable trades and to submit copies of payroll records to Developer to ensure compliance with State Labor Code requirements pertaining to “public works.” Developer shall provide such payroll records to City promptly following City’s request therefor. Developer shall also include in the Construction Contract with its general contractor a provision, in a form reasonably acceptable to City, obligating such general contractor to require its contractors and/or subcontractors to comply with all State Labor Code requirements pertaining to “public works” (as defined in Labor Code section 1720). If Developer receives federal funding or assistance and the financing source requires compliance, Developer shall also comply with any applicable federal labor requirements, including the Davis-Bacon Act of 1931 as codified in 40 U.S.C §§ 3141 through 3148 (“**Davis-Bacon**”).

(b) If applicable, Developer shall defend (with counsel reasonably acceptable to City) City and City Parties from and against any and all Claims made by a third party or parties arising out of Developer’s obligation to comply with all State Labor Code and Davis-Bacon requirements pertaining to public works and payment of prevailing wages in connection with the Improvements, as required pursuant to the immediately preceding paragraph, and indemnify and hold harmless City and City Parties with respect to all final judgments or settlements in actions brought by any “contractor” in which City or City is (i) determined to be an “awarding body” and (ii) damages are awarded, pursuant to Labor Code sections 1726 or 1781 or applicable portions of Davis-Bacon. Developer’s indemnity obligations under this Section 308.2 shall survive expiration or termination of this Agreement and issuance of the Certificate of Completion.

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(c) Developer hereby waives, releases and discharges forever City and City Parties from any and all present and future Claims arising out of or in any way connected with Developer's obligation to comply with all State Labor Code and Davis-Bacon requirements pertaining to public works and payment of prevailing wages pursuant to the first paragraph of this Section 308.2.

309. Taxes and Assessments. During its period of ownership of the Site and the Project Improvements thereon, Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site and the Project Improvements thereon, or any portion thereof, subject to Developer's right to contest in good faith any such taxes or seek a welfare exemption. Developer shall remove or have removed any levy or attachment made on the Site or the Project Improvements thereon or any part thereof; or shall assure the satisfaction thereof within thirty (30) days following the date of attachment or levy.

310. Certificate of Completion. Following Developer's satisfactory completion of the work of Project Improvements, as evidenced by City's issuance of a certificate of occupancy, Developer may request that City issue the Certificate of Completion with respect to such work. The "**Certificate of Completion**" shall be substantially in the form of Attachment No. 8 attached hereto. City shall not unreasonably withhold the Certificate of Completion. If City refuses or fails to furnish the Certificate of Completion, City shall, within ten (10) business days after Developer's written request therefor, provide Developer with a written statement of the reasons City refused or failed to furnish the Certificate of Completion. The statement shall also contain City's opinion of the actions Developer must take to obtain the Certificate of Completion. The Certificate of Completion shall be a conclusive determination of Developer's satisfactory completion of the work of Project Improvements. Any party then owning or thereafter purchasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, or acquisition) incur any obligation or liability under this Agreement, except for those continuing covenants as set forth in the Affordable Housing Covenant. Notwithstanding anything in this Agreement to the contrary, the Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to the holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the construction of the Project Improvements, or any part thereof; nor shall the Certificate of Completion constitute a notice of completion as referred to in section 3093 of the California Civil Code.

311. Mortgage and Deed of Trust Financing.

311.1 No Encumbrances Except Mortgages and Deeds of Trust. Prior to issuance of the Certificate of Completion, mortgages, deeds of trust and any other financing instrument will be permitted on the Site only for the purpose of financing construction and development of the Project Improvements (including but not limited to, design, planning, permitting, remediation, site preparation and horizontal and vertical construction). Following issuance of the Certificate of Completion, mortgages, deeds of trust and any other financing instrument shall be permitted for any purpose, and City shall have no approval or disapproval rights with respect thereto. The words "mortgage" and "deed of trust" as used herein shall include sale and lease-back financing.

311.2 Holder Not Obligated to Construct Project Improvements. The holder of any mortgage or deed of trust on the Site shall not be obligated by the provisions of this

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Agreement to construct or complete the Project Improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to or be construed to permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon other than those uses and Project Improvements provided for or authorized by this Agreement, the Affordable Housing Covenant, and the Project Approvals.

311.3 Notice of Default to Mortgagee or Deed of Trust Holders; Right to Cure. With respect to any mortgage, deed of trust or other financing instrument granted by Developer on the Site, whenever City shall deliver any Notice or demand to Developer with respect to any breach or default by Developer hereunder, City shall at the same time deliver to each holder of record of any mortgage, deed of trust or other financing instrument on the Site a copy of such Notice or demand. No Notice of default shall be effective as to the holder unless such Notice is given. Each such holder shall (insofar as the rights of City are concerned) have the right, at its option, within one hundred twenty (120) 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 mortgage debt and the lien of its mortgage. In the event possession of the Site (or portion thereof) is required to effectuate such cure or remedy, the holder shall be deemed to have timely cured or remedied if it commences the proceedings necessary to obtain possession thereof within one hundred twenty (120) days, diligently pursues such proceedings to completion, and, after obtaining possession, diligently completes such cure or remedy (the foregoing time periods being subject to extension during the period that such holder is precluded from taking or pursuing any such action as a consequence of any bankruptcy stay or other court order). Nothing in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project Improvements (beyond the extent necessary to conserve or protect such Project Improvements or construction already made) without first having expressly assumed Developer's obligations to City by written agreement reasonably satisfactory to City. Any such holder properly completing such Project Improvements shall be entitled, upon compliance with the requirements of Section 310, to a Certificate of Completion.

400. COVENANTS, RESTRICTIONS AND AGREEMENTS

401. Use Covenants. The Site shall be used as a senior citizen housing development as defined by Section 51.3 of the California Civil Code for a period of fifty-five (55) years. All uses on the Site shall conform to the Project Approvals, this Agreement, and the Affordable Housing Covenant.

402. Affordable Units. As more particularly set forth in the Affordable Housing Covenant, all of the residential units constructed on the Site (with the exception of one (1) unit on the Senior Center Site and one (1) unit on the Scout Property which shall be reserved for the Property Manager [as defined in the Affordable Housing Covenant]) shall be rented to and occupied by an Eligible Household at an Affordable Rent (each, an “**Affordable Unit**” and, collectively, the “**Affordable Units**”).

402.1 Rent and Income Restrictions. As more particularly set forth in the Affordable Housing Covenant, the Affordable Units shall be rented to and occupied by Eligible Households at Affordable Rents for a period of fifty-five (55) years.

402.2 General Requirements for Affordable Units. As more particularly set forth in the Affordable Housing Covenant, the affordable units on the Site shall be made available

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only to Extremely Low-, Very Low-, and Low-Income Households. The two-bedroom unit on the Senior Center Site and the two-bedroom unit on the Scout Property shall be rented to and occupied by the Property Manager (the “**Property Manager Unit**”), who is required to reside on the premises pursuant to Section 402.5 below, however, the rental of the Property Manager Unit to the Property Manager shall not be subject to the income and rent restrictions set forth herein. The Parties acknowledge and agree that the final unit mix and count will be mutually agreed upon prior to submission of an application for the Project Approvals, and in no event shall be less than 90 units.

402.3 Marketing of Affordable Units. Developer shall be responsible for marketing the Affordable Units, as more particularly set forth in the Affordable Housing Covenant. Within the time established in the Schedule of Performance, Developer shall submit to City a residential marketing plan, in a form acceptable to City and consistent with the provisions of the Affordable Housing Covenant (“**Marketing Plan**”). The City Manager shall approve or disapprove the proposed Marketing Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Marketing Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Marketing Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Marketing Plan initially submitted to City.

402.4 Supportive Services to Residents. Developer shall be responsible for ensuring that adequate supportive services are provided to residents of the Affordable Units, as more particularly set forth in the Affordable Housing Covenant. Within the time established in the Schedule of Performance, Developer shall submit to City a residential supportive services plan, in a form acceptable to City and consistent with the provisions of the Affordable Housing Covenant (“**Supportive Services Plan**”). The City Manager shall approve or disapprove the proposed Supportive Services Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Supportive Services Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Supportive Services Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Supportive Services Plan initially submitted to City.

402.5 On-Site Property Manager; Site Management Plan. Developer shall be responsible for ensuring that a person with the requisite skill and experience managing multi-family residential developments (“**Property Manager**”) lives on the Senior Center Site and the Scout Property in the Property Manager Units. Further, Developer shall be responsible for addressing in detail their plan to provide for the maintenance, repair (both routine and extraordinary), and rehabilitation of the Affordable Units, replacement of capital items in the Affordable Units, and implementation of the requirements of the Conditions of Approval (“**Site Management Plan**”). Within the time established in the Schedule of Performance, Developer shall submit to City a Site Management Plan. The City Manager shall approve or disapprove the proposed Site Management Plan within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Site Management Plan, the City Manager shall do so by written Notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Site

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Management Plan in the same manner and within the same time established in the Schedule of Performance for the approval or disapproval of the Site Management Plan initially submitted to City.

403. Maintenance Covenants. Developer hereby covenants and agrees that it shall be responsible for ensuring that the Project Improvements on the Site are maintained in a clean and orderly condition and in good physical and aesthetic condition and repair, consistent with other affordable, first class senior living facilities, and that the Site shall be kept in a decent, safe, sanitary, habitable and tenantable living condition, free from any accumulation of debris, waste, unmaintained landscaping, graffiti, disrepair, abandoned vehicles and appliances, and illegal activity, and in conformity with all applicable federal, state and local laws, ordinances, codes and regulations, including the Conditions of Approval. Separate metering of utilities for the Senior Center will be provided, including metering for water and electric.

404. Nondiscrimination Covenants.

404.1 No Discrimination. Developer covenants by and for itself and any successors in interest 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, any improvements thereon, or any part thereof, nor shall the grantee or any person claiming under or through Developer, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants and all other provisions of this Section 404 shall run with the land and shall be contained in each subsequent grant deed conveying title to the Site, any improvements thereon, or any part thereof, to any subsequent owner, and the provisions of this Section 404 shall survive expiration or other termination of this Agreement.

404.2 Nonsegregation Clause. Developer shall refrain from restricting the rental, sale or lease of the Site or any improvements thereon, or any part thereof, 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 deeds, leases or contracts for the rental, sale or lease of the Site or any improvements thereon, or any part thereof, made by Developer after the Date of Agreement, shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds:

“(1) The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there will 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

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the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

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

(b) In leases:

“(1) 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 premises 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 premises herein leased.

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

(c) In contracts:

“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

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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 premises, nor shall the transferee 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, subtenants, sublessees or vendees of the premises.”

405. Affordable Housing Covenant. Developer’s covenants with respect to the development, use, maintenance, and operation of the Site shall be more particularly set forth in the Affordable Housing Covenant, which shall run with the land and be binding on Developer and its successors and assigns for the period of time set forth therein.

405.1 Within the time provided in the Schedule of Performance, the Affordable Housing Agreement and Declaration of Restrictive Covenants (“**Affordable Housing Covenant**”), attached hereto as Attachment No. 5, shall be executed and acknowledged by City and Developer, subject to non-substantive formatting and/or clerical modifications, and delivered into Escrow for recordation in the Official Records. Further, prior to Closing, City and Developer shall agree on the allocation of studio and one-bedroom units to Extremely Low Income Households, Very Low Income Households, Low-Income Households as provided in Section 2.2 of the Affordable Housing Covenant, which allocation shall otherwise conform with the requirements of California Government Code Section 54221(f)(1)(F). The Affordable Housing Covenant shall be recorded against the Site immediately following delivery and recordation of the Grant Deed and shall have priority over the liens of all mortgages, deeds of trust and other liens (other than the lien for current, unpaid property taxes). If requested by the City, Developer shall cause any or all such mortgagees, deed of trust beneficiaries and other lien holders to execute and deliver to Escrow for recordation in the Official Records a subordination agreement in a form reasonably acceptable to City unconditionally subordinating such mortgages, deeds of trust and other liens to the Affordable Housing Covenant (“**Subordination Agreement – Affordable Units**”).

406. Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction. City is deemed the beneficiary of the terms and provisions of this Agreement, including the Affordable Housing Covenant, and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement, including the Affordable Housing Covenant, and the covenants running with the land have been provided, without regard to whether City has been, remains or is an owner of any land or interest therein in the Site. City shall have the right, if this Agreement, Affordable Housing Covenant, or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement, Affordable Housing Covenant and covenants may be entitled. The covenants contained in this Agreement shall remain in effect until the issuance of the Certificate of Completion, at which time they will all automatically terminate, except for the following:

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(a) The covenants pertaining to the Affordable Units, use and maintenance of the Site and all Project Improvements thereon, as set forth in Sections 401, 402, 403, and 405, shall remain in effect for the time period set forth in the Affordable Housing Covenant.

(b) The covenants against discrimination, as set forth in Section 404 shall remain in effect in perpetuity.

500. FINANCIAL PROVISIONS

501. Preliminary Financing Report, Evidence of Financing, and Loan Closings.

501.1 Preliminary Financing Report. Within the time established in the Schedule of Performance, Developer shall prepare and submit to City its plan for debt financing that, coupled with the proposed equity financing, are sufficient to undertake the design and construction of the Project Improvements in accordance with this Agreement (“**Preliminary Financing Report**”). The Preliminary Financing Report shall include the following: (i) cost of design and construction of Project Improvements; (ii) initial amount to make up the annual capital reserve fund for replacement of Project Improvements; and (iii) private and public sources of funding for the design and construction of the Project Improvements, amount of funding to be provided by each source, and phasing and timing of funding applications, award and disbursements, including the sources of public funding (the “**Public Financing**”).

501.2 Evidence of Financing. Within the time established in the Schedule of Performance, Developer shall obtain and submit to City written evidence satisfactory to City that Developer has submitted applications for Public Financing and obtained firm commitments for debt and equity financing necessary to undertake the design and construction of the Project Improvements in accordance with this Agreement (“**Evidence of Financing**”). The Evidence of Financing shall include the following: (i) cost of construction of Project Improvements based on 100% Construction Drawings and a guaranteed maximum price Construction Contract; (ii) initial amount to make up the annual capital reserve fund for replacement of Project Improvements; and (iii) written evidence of private funding and Public Financing committed to the Project Improvements, amount of funding to be provided by each source, and phasing and timing of funding disbursements.

501.3 City Approval. The City Manager shall approve or disapprove the Preliminary Financing Report and Evidence of Financing within the times established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager shall reasonably disapprove any portion of the Preliminary Financing Report or Evidence of Financing, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval and, thereafter, Developer shall utilize good faith, diligent efforts to promptly obtain and submit to City a new Preliminary Financing Report or Evidence of Financing, as applicable. The City Manager shall approve or disapprove such new Preliminary Financing Report or Evidence of Financing in the same manner and within the same times established in the Schedule of Performance for the approval or disapproval of the Preliminary Financing Report or Evidence of Financing, as applicable, as initially submitted to City. In the event City disapproves Developer’s Preliminary Financing Report or Evidence of Financing or Developer fails to obtain and deliver the Preliminary Financing Report or Evidence of Financing to City as provided above,

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then either party may terminate this Agreement as provided herein by Notice to the other party and, thereafter, neither party shall have any rights or obligations hereunder.

501.4 Loan Closings, Financing, and Notice of Default to City. Prior to or simultaneous with the Closing, Developer's construction loan(s) shall have closed and all other financing shall have been provided or committed to Developer. Developer shall ensure that any and all parties, public and private, providing financing for design and development of the Project Improvements shall provide written notice to City (concurrent with notice to Developer) of any breach or default of Developer under their respective financing documents. Notwithstanding anything to the contrary contained herein, if required by Developer's limited partner, the City may allow Closing to occur prior to construction finance closing, provided that City determines that all conditions to closing such financing are satisfied.

600. DEFAULTS AND REMEDIES

601. Default; Notice and Cure. Subject to permitted extensions of time as provided in Section 702, failure by either party to perform any action or covenant required by this Agreement within the time periods provided herein following Notice and expiration of any applicable cure period, shall constitute a "**Default**" under this Agreement. A party claiming a Default shall give written Notice of Default to the other party specifying the Default complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against the other party, and the other party shall not be in Default if (a) in the case of a monetary Default, such party cures the monetary Default within ten (10) business days following receipt of such Notice of Default, or (b) in the case of a non-monetary Default, such party cures, corrects or remedies the non-monetary Default within thirty (30) days following receipt of such Notice of Default, or if the non-monetary Default cannot reasonably be cured within such thirty (30) day period, said party commences to cure the non-monetary Default within said thirty (30) day period and thereafter completes such cure, correction or remedy with diligence.

602. Institution of Legal Actions. Except as otherwise specifically provided herein, upon the occurrence of a Default, and the expiration of the applicable cure period pursuant to Section 601 above, the non-defaulting party shall have the right, in addition to any other rights or remedies, to institute any action at law or in equity to cure, correct, prevent or remedy any Default, or to 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 Sonoma, State of California, or in the Federal District Court for the Northern District of the State of California. Notwithstanding anything herein to the contrary, a party's right to recover damages in the event of a Default by the other party shall be limited to recovery of actual damages and neither party shall have the right to recover any special, punitive, or consequential damages.

603. Termination. This Agreement may be terminated: (i) if there is an uncured Default, by written Notice from the party not in Default, (ii) if there is a failure of an express condition (which is not waived by the party whom the condition benefits) by Notice from the party whom the condition benefits, or (iii) in accordance with the provisions of Sections 202.4, 203, or 501.3 hereof. In the event that this Agreement is terminated due to an uncured default of City, City shall return any unexpended City Consultant Cost deposit to Developer.

604. Assignment of Developer Plans. In addition to City's other rights and remedies hereunder, upon City's request which may be made at any time following occurrence of a

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Developer Default, Developer shall assign and deliver to City, without charge, all plans, drawings, designs, surveys, soils reports, engineering reports, environmental studies, specifications and cost estimates prepared by or on behalf of Developer in connection with the Project Approvals and Project Improvements (collectively, “**Developer Plans**”). Developer hereby agrees that City may use any such Developer Plans in connection with any similar project or other development of the Site. City shall have the right to work with all architects, engineers and other consultants retained by Developer or with whom Developer has worked in connection with the Project Approvals and Project Improvements, and Developer shall not discourage any such architects, engineers and other consultants from working with City. Developer’s obligations under this Section 604 shall survive expiration or termination of this Agreement.

605. Option to Repurchase. City shall have the additional right, at its option, to repurchase the Site or any portion thereof with all improvements thereon, if after Conveyance of the Site and prior to the issuance of the Certificate of Completion for the Project Improvements:

(a) **Failure to Commence Construction.** Developer fails to Commence Construction of the Project Improvements on the Site within the time set forth in the Schedule of Performance; or

(b) **Failure to Diligently Prosecute Construction to Completion.** Once Developer Commences Construction, Developer fails diligently to prosecute construction of the Project Improvements to completion within the time set forth in the Schedule of Performance; or

(c) **Abandonment.** Developer abandons or substantially suspends construction of the Project Improvements for a period of three (3) months after Developer’s receipt of written Notice of such abandonment or suspension from City; or

(d) **Unauthorized Sale or Transfer.** Developer directly or indirectly, voluntarily or involuntarily sells, assigns, transfers, disposes of or further encumbers or agrees to sell, assign, transfer, dispose of or further encumber or suffer to exist any other lien against all or any portion of or any interest in the Site which claim of lien is maintained for a period of thirty (30) calendar days without discharge, satisfaction thereof, or release through posting of bonds or other forms of security (“**Transfer**”), except in accordance with the terms of this Agreement. For the purpose of this provision, Transfer shall include, in addition to the common and ordinary meaning of those terms and without limiting their generality, transfers made to subsidiary or affiliated entities, and any “change in ownership” as that term is used from time to time in California real property taxation law, except as allowed under this Agreement.

This option shall be subordinate and subject to and be limited by and shall not defeat, render invalid or limit: (i) any mortgage, deed of trust or other security instrument permitted by this Agreement; or (ii) 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 option to purchase with respect to the Site or any portion thereof, City shall pay to Developer in cash an amount equal to: (i) the Purchase Price originally paid by Developer; plus (ii) the out-of-pocket costs actually incurred by Developer for labor and materials for the construction and design of the Project Improvements or that portion thereof existing at the time City exercises the option to purchase (exclusive of amounts financed by third parties, if any, to the

Exhibit A

extent such financing obligations are assumed by City); less (iii) any net gains or net income withdrawn or made by Developer from the Site or such portion thereof or the Project Improvements thereon; and less (iv) the amount of unpaid liens on the Site or such portion thereof which City agrees to pay or assume, and any unpaid current or past-due installments of taxes or assessments against the Site or such portion thereof which City agrees to pay or assume (collectively, the “**Option Price**”).

In order to exercise such purchase option, City shall give Developer Notice of such exercise and Developer shall, within forty-five (45) days after Developer’s receipt of such Notice, provide City with a detailed accounting of all of Developer’s costs incurred as provided above, supported by executed contracts, invoices and evidence of payment. City, within thirty (30) days thereafter, shall pay to Developer in cash (through an escrow if desired by City) all sums owing pursuant to this Section 605, and Developer shall thereupon execute and deliver to City a grant deed transferring to City all of Developer’s interest in the Site or portion thereof and improvements thereon, as applicable. The foregoing notwithstanding, the City shall have the continuing right to conduct an audit of all of Developer’s records pertaining to the Option Price for a period of two (2) years following Developer’s execution and delivery to City of the grant deed; accordingly, Developer shall maintain accurate books and records supporting its costs of design, construction and installation of the Project Improvements until the earlier of (i) issuance of a Certificate of Completion for the Project Improvements or (ii) two years following termination of this Agreement.

606. Acceptance of Service of Process. If any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Manager or in such other manner as may be provided by law. If any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon Andrea Osgood, Chief of Real Estate Development and Executive Vice President⁷, or in such other manner as may be provided by law.

607. Rights and Remedies Are Cumulative. Except as otherwise expressly provided herein, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other party, except as otherwise expressly provided herein.

608. Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

700. GENERAL PROVISIONS

701. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice (“**Notice**”) which either party may desire to give to the other party under this Agreement must be in writing and may be given by any commercially acceptable means, including via facsimile or via overnight courier, to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice. Any Notice shall be deemed received on the date of delivery if delivered

Exhibit A

by hand or by first class mail, postage prepaid or if sent via nationally recognized overnight courier; and upon receipt of verification of transmission if sent via facsimile (provided a copy is sent the same day via first-class mail). Notices sent by a party's attorney on behalf of such party shall be deemed given by such party.

To City: City of Benicia
250 East L Street
Benicia, CA 94510
Attention: Mario Giuliani, City Manager
Telephone: (707)746-4289
Email: MGiuliani@ci.benicia.ca.us

With copies to: Burke, Williams & Sorensen, LLP
181 Third Street, Suite 200
San Rafael, CA 94901
Attention: Benjamin Stock, City Attorney
Telephone: (415) 755-2605
Email: bstock@bwslaw.com

To Developer: Eden Benicia Senior Investors LP

c/o Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: Tami Strauss
Telephone: (510) 931-8210
Email: tami.strauss@edenhousing.org

With a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Evan Gross, Esq.
Telephone: (415)781-6600 ext. 6
Email: egross@gubbbbarshay.com

702. Enforced Delay; Extension of Times of Performance. Subject to the limitations set forth below, performance by either party hereunder shall not be deemed to be in Default, and all performance and other dates specified in this Agreement, excepting the Outside Date, shall be extended, where delays or failures to timely perform are due to: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation; unusually severe weather; acts or omissions of the other party; or acts or failures to act on the part of City or any other public or governmental City or entity (other than the acts or failures to act of City which shall not excuse performance by City). An extension of time for any such cause shall be for the period of the enforced delay provided the party claiming such extension shall provide Notice to the other party within thirty (30) days of commencement of such cause and the total time period of such enforced delays shall in no event exceed eighteen (18) months. Any party claiming such extension shall notify the other(s) promptly after becoming aware of the existence of any

Exhibit A

event or condition giving rise to such claim. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Developer, excepting the Outside Date. Developer expressly agrees that adverse changes in economic conditions, either of Developer specifically or the economy generally, changes in market conditions or demand, and/or Developer's inability to obtain financing or other lack of funding to complete the Project Improvements shall not constitute grounds of enforced delay pursuant to this Section 702. Developer expressly assumes the risk of such adverse economic or market changes and/or inability to obtain financing, whether or not foreseeable as of the Date of Agreement.

703. Successors and Assigns. Subject to the prohibitions set forth in Section 103 against changes in the ownership, management and control of Developer prior to issuance of the Certificate of Completion, all of the terms, covenants and conditions of this Agreement shall be binding upon Developer, and Developer's permitted successors and assigns. Whenever the term "**Developer**" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

704. Recordation of Memorandum of Agreement. Within the time provided in the Schedule of Performance, the "**Memorandum of Agreement**" shall be executed and acknowledged by City and Developer in the form attached as Attachment No. 3, and delivered into Escrow for recordation against the Site in the Official Records upon Closing.

705. Relationship Between City and Developer. It is hereby acknowledged that the relationship between City and Developer is not that of a partnership or joint venture and that City and Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein or in the Attachments hereto, City shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Site or the Project Improvements.

706. City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by City, the City Manager is authorized to act on behalf of City unless specifically provided otherwise or the context would require otherwise. The City Manager is hereby authorized to extend times for performance set forth in the Schedule of Performance and to make other minor changes to this Agreement, and to negotiate and execute such other agreements as are called for in this Agreement, or that are necessary to carry out the intent of this Agreement. Except as otherwise provided in this Agreement, whenever City is required to provide an approval or disapproval, City shall give such approval or disapproval within fifteen (15) business days of a Developer's request. If City fails to give such approval or disapproval with such 15-business day period, the request shall be deemed disapproved. Notwithstanding anything herein to the contrary, any change or modification to the Outside Date shall require an amendment to this Agreement approved by the City Council, which approval may be granted or denied in its sole discretion.

707. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

708. Integration and Incorporation by Reference. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or

Exhibit A

written, are merged in this Agreement and shall be of no further force or effect. All Attachments to this Agreement are incorporated herein by reference.

709. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. Reference to section numbers is to sections in this Agreement, unless expressly stated otherwise.

710. Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word “including” shall be construed as if followed by the words “without limitation.” This Agreement shall be interpreted as though prepared jointly by City and Developer.

711. Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

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

713. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day and including the last day, unless the last day is a holiday, Saturday or Sunday, or a Friday on which City offices are closed, and then that day is also excluded. The term “holiday” shall mean all holidays recognized by the City. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

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

715. Time of Essence. Time is of the essence with respect to the performance by City and Developer of each and every obligation and condition of this Agreement.

716. Cooperation. Each party agrees to cooperate with the other in this transaction and, in that regard, shall execute any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement. In addition, Developer agrees to cooperate with City in obtaining grant funding for the build out of the Senior Center on the Retained Site.

717. Conflicts of Interest. No member, official or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or

Exhibit A

employee participate in any decision relating to the Agreement which 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.

718. Time for Acceptance of Agreement by City. This Agreement, when approved by the City Council, executed by Developer and delivered to City, must be authorized, executed and delivered by City on or before forty-five (45) days after signing and delivery of this Agreement by Developer or this Agreement shall be void, except to the extent that Developer shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement by City.

719. Developer's Indemnity. Developer shall defend (with counsel reasonably acceptable to City), indemnify, assume all responsibility for, and hold City and City Parties harmless from all Claims arising directly or indirectly from: (a) any of Developer's acts, omissions, negligence or willful misconduct, whether such acts, omissions, negligence or willful misconduct be by Developer or by anyone directly or indirectly employed or contracted with by Developer, and (b) performance of the work of Project Improvements (including design, development, and construction); whether such Claims shall accrue or be discovered before or after expiration or termination of this Agreement or issuance of a Certificate of Completion. Developer's indemnity obligations under this Section 719 shall not extend to Claims to the extent occasioned by the active negligence or willful misconduct of City Parties nor shall it extend to Claims solely related to the design, development or construction of the build out of the Senior Center. Notwithstanding the foregoing sentence, Developer shall be required to defend City and City Parties against any and all Claims, regardless of the extent to which (or if at all) City or any City Parties is or are alleged or found to have partially caused or contributed to the Claim. The provisions of this Section 719 shall survive termination or expiration of this Agreement or any portion thereof.

720. Nonliability of Officials and Employees of City. No member, official or employee of City or City Parties shall be personally liable to Developer, or any successor in interest, in the event of any Default or breach by City or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement. Developer hereby waives and releases any claim it may have against the members, officials or employees of City with respect to any Default or breach by City or for any amount which may become due to Developer or its successor, or on any obligations under the terms of this Agreement.

721. Assignment by City. City may assign or transfer any of its rights or obligations under this Agreement with the approval of Developer, which approval shall not be unreasonably withheld; provided, however, that City may assign or transfer any of its interests hereunder to any entity controlled by City at any time without the consent of Developer.

722. Applicable Law. The laws of the State of California, without regard to conflict of laws principles, shall govern the interpretation and enforcement of this Agreement.

723. Cooperation in the Event of Legal Challenge. City and Developer, at Developer's sole cost and expense, shall cooperate in the event of any court action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, and City shall, upon request of Developer, appear in the action and defend its decision. To the extent Developer determines to contest or defend such litigation challenges or requests that City cooperate in those defense efforts, Developer shall reimburse City, within ten (10) days

Exhibit A

following City's written demand therefor, which may be made from time to time during the course of such litigation, all costs incurred by City in connection with the litigation challenge, including City's administrative, legal and court costs. If Developer opts to defend any such legal challenge, Developer shall indemnify, defend, and hold harmless City and City Parties from and against any Claims assessed or awarded against City or City by way of judgment, settlement, or stipulation. Nothing herein shall authorize Developer to settle such legal challenge on terms that would constitute an amendment or modification of the Project Approvals or this Agreement, unless such amendment or modification is approved by the City Council in accordance with applicable legal requirements, and City reserves its full legislative discretion with respect thereto.

[Signatures follow on next page]

Exhibit A

IN WITNESS WHEREOF, City and Developer have executed this Agreement on the respective dates set forth below.

Dated: _____
[Date of Agreement]

CITY:

CITY OF BENICIA,
a California municipal corporation

By: _____
Mario Giuliani, City Manager

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

Dated: _____

DEVELOPER:

Eden Benicia Senior Investors LP,
a California limited partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

By: EDEN HOUSING, INC.,
a California non-profit public benefit corporation, its
sole member/manager

By:

Andrea Osgood, Chief of Real Estate Development
and Executive Vice President

Exhibit A

Attachment No. 1-A

Site Map

Exhibit A

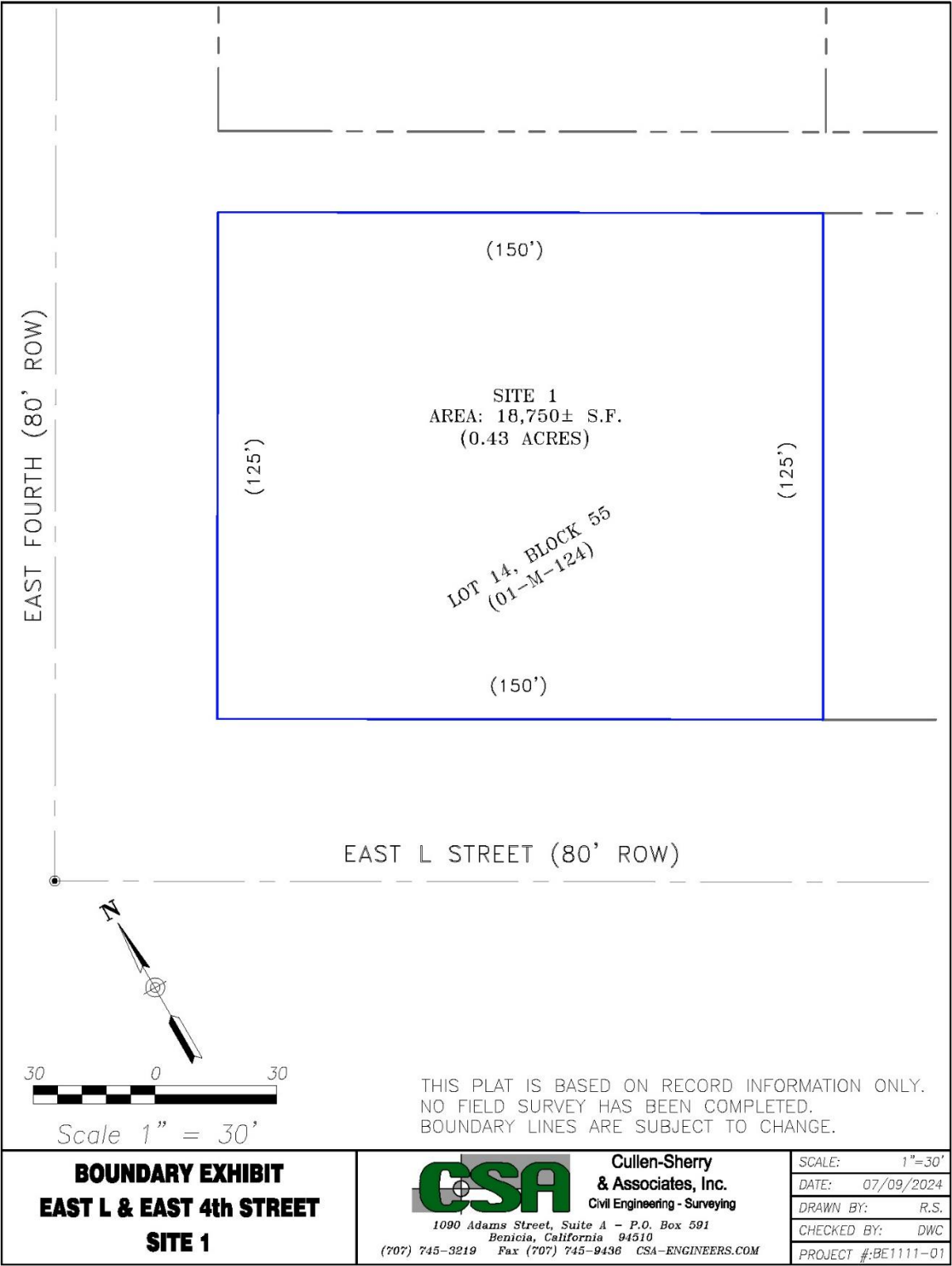


Exhibit A

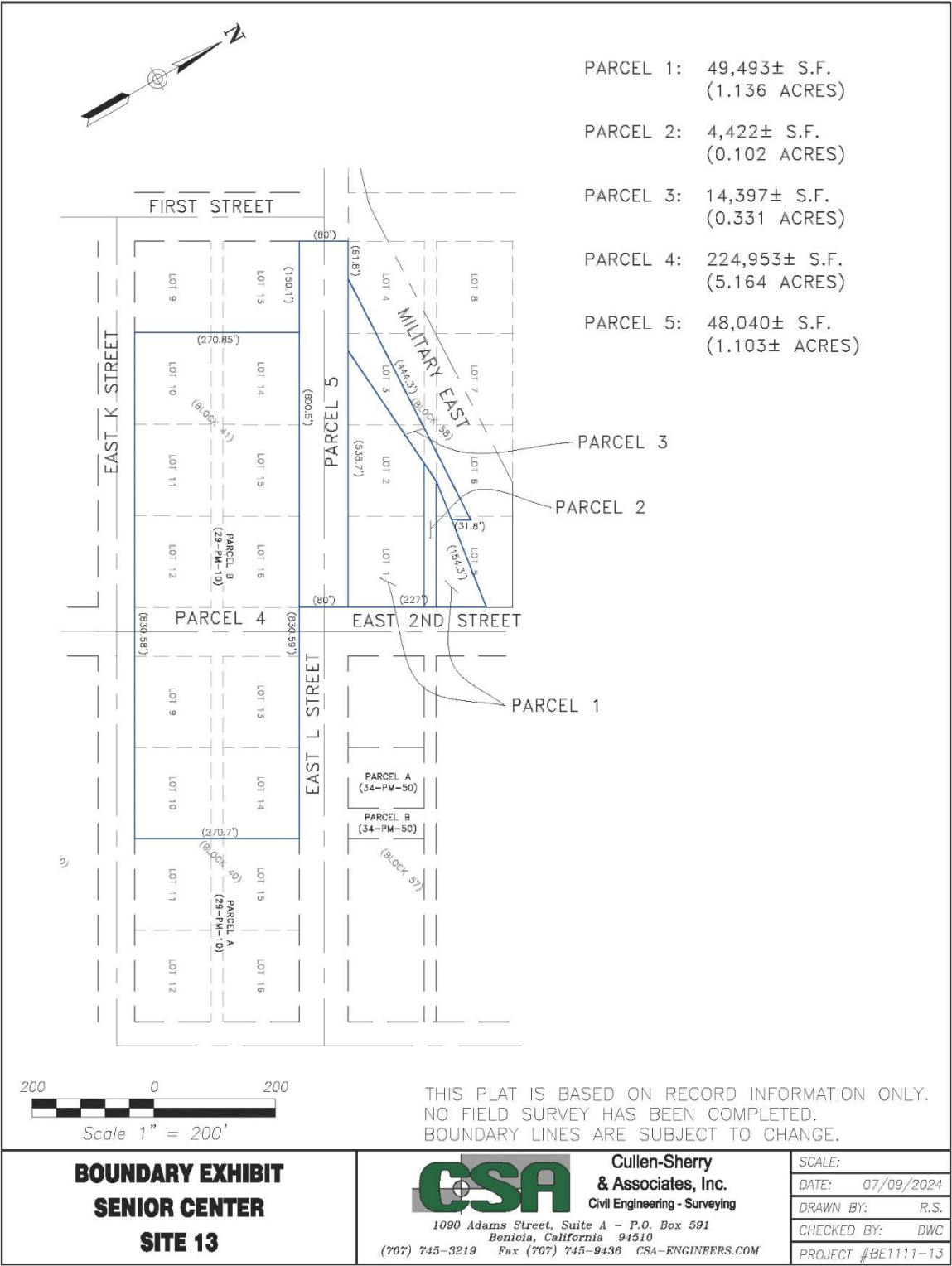


Exhibit A

Attachment No. 1-B

Senior Center Conveyance Parcel Site Map

[to be inserted after recordation of the Subdivision Map]

Exhibit A

Attachment No. 2-A

Senior Center Site Legal Description

Parcel 1:

Lots 1, 2, 3, 5 and 6 in Block 58 of the City of Benicia, according to the Official Map thereof made by Benjamin W. Barlow, filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124. Excepting therefrom that portion of said Lots 2, 3, 5 and 6 which are located within the parcel of land conveyed to the State of California for State Highway purposes by Grant Deed from Dominican College of San Rafael, recorded August 23, 1943, in Book 289, Page 166 of Official Records, as Instrument No. 6981.

Parcel 2:

A portion of the alley in the Southerly half of Block 58, beginning at the most Easterly corner of Lot 1, Block 58, as shown on the Official Map of the City of Benicia, filed April 21, 1874 in Book 1 of Maps, Page 124, Solano County Records; thence North 59°59'41" West, 236.62 feet to a point on the Southerly line of the parcel of land granted to the State of California by the Dominican College of San Rafael and recorded August 23, 1943 in Book 289, Page 166, Official Records of Solano County; thence North 85°48'33" East, 33.90 feet; thence South 81°39'58" East, 2.57 feet; thence South 59°59'41" West, 20.00 feet to the point of beginning.

Parcel 3:

A portion of Military East Right of Way beginning at a point on the Northeasterly line of "L" Street that bears North 50°59'41" West, 520.55 feet from the most Southerly corner of Lot 1, Block 58, all as shown on the Official Map of the City of Benicia, filed April 21, 1874 in Book 1 of maps, page 124, Solano County Records, said point is also being on the Southerly line of the parcel of land granted to the State of California by the Dominican College of San Rafael and recorded August 23, 1943 in Book 289, Page 166, Official Records of Solano County; thence North 59° 59' 41" West, 118.17 feet; thence South 87°00'00" East, 444.30 feet; thence South 30°58'53" West, 31.88 feet; thence North 81°39'58" West, 70.07 feet; thence South 85°48'33" West 256.31 feet to the point of beginning.

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Attachment No. 2-B

Scout Property Legal Description

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Exhibit A

Attachment No. 2-C

Senior Center Conveyance Parcel Legal Description

[to be inserted after recordation of the Subdivision Map]

Exhibit A

Attachment No. 2-D

Retained Site Legal Description

[to be inserted after recordation of the Subdivision Map]

Exhibit A

Attachment No. 3

Memorandum of Agreement

Exhibit A

RECORDING	REQUESTED	BY	)
AND WHEN RECORDED MAIL TO:			)
			)
City of Benicia			)
250 East L Street			)
Benicia, CA 95510			)
Attention: City Clerk			)
			)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT

THIS MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT (“**Memorandum of Agreement**”), dated for identification purposes as of _____, 20__, is entered into by and between the CITY OF BENICIA, a California municipal corporation (“**City**”), and EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”).

1. **Disposition and Development Agreement.** City and Developer are parties to a Disposition and Development Agreement dated for identification purposes as of _____, 20__ (“**DDA**”), for: (i) City’s disposition and sale to Developer of certain real property located in the City of Benicia, County of Solano, State of California, legally described in Exhibit A-1 and Exhibit A-2 attached hereto and incorporated herein by this reference (collectively the “**Site**”); (ii) the development by Developer of a senior citizen housing development as defined by Section 51.3 of the California Civil Code with not less than ninety (90) below market rate residential units, with a mix of predominantly one-bedroom units and a small percentage of studios, with ancillary parking and community amenities (“**Affordable Units**”), which shall be available for rental to households of extremely low, very low, and low income, on the Site (“**Project**”); and (iii) Developer to use, operate and maintain the Project, including the Affordable Units, in accordance with the terms of the DDA and the Affordable Housing Covenants as defined in the DDA. The DDA is available for public inspection and copying at the office of the City Clerk, City of Benicia, City Hall, 250 East L Street, Benicia, California 95510. All of the terms, conditions, provisions and covenants of the DDA are incorporated in this Memorandum of Agreement by reference as though written out at length herein, and the DDA and this Memorandum of Agreement shall be deemed to constitute a single instrument or document. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the DDA.

2. **Purpose of Memorandum of Agreement.** This Memorandum of Agreement is prepared for recordation purposes only, and in no way modifies the terms, conditions, provisions and covenants of the DDA. In the event of any inconsistency between the terms, conditions, provisions and covenants of this Memorandum of Agreement and the DDA, the terms, conditions, provisions and covenants of the DDA shall prevail.

The parties have executed this Memorandum of Agreement on the dates specified immediately adjacent to their respective signatures.

Exhibit A

Dated: _____, 20__ CITY:

CITY OF BENICIA,
a California municipal corporation

By: _____
Mario Giuliani, City Manager
[notary acknowledgment required]

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

Dated: _____, 20__

DEVELOPER:

EDEN BENICIA SENIOR INVESTORS LP, a
California limited partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

By: EDEN HOUSING, INC.,
a California non-profit public benefit
corporation, its sole member/manager

By: _____
Andrea Osgood, Chief of Real Estate
Development and Executive Vice President
[notary acknowledgment required]

Exhibit A

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the subdivision map)

Exhibit A

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Exhibit A

Attachment No. 4

Schedule of Performance

Action	Date
1. Open Escrow. City shall open Escrow with the Escrow Agent. (§ 202)	Within 15 calendar days from the Date of Agreement.
2. Title Report. City shall cause the Title Company to deliver the Title Report to Developer and City. (§ 203)	Within 30 calendar days following the date of Escrow is opened.
3. Survey. Developer shall cause a survey of the Site to be prepared by a licensed civil engineer, certified to Title Company, Developer and City, sufficient to enable Title Company to issue the Owner's Title Policy at Closing City. (§ 203)	Within 60 calendar days prior to Closing
4. Approval/Disapproval of Title Exceptions. Developer shall provide Notice to City of Developer's approval or disapproval of Title Exceptions. (§ 203)	Within 60 days following receipt of Title Report.
5. City Consultant Cost Deposit. Developer shall deposit the City Cost Deposit in an initial amount of \$25,000 with City. (§ 210)	Within 30 calendar days following the Date of Agreement.
6. Approval of Preliminary Cost Estimate – Senior Center. City shall review the Preliminary Cost Estimate for the Senior Center and provide Developer with notice of approval or disapproval. (§ 301.1(b))	Within 15 business days following submittal.
7. Pre-Application for Project Approvals. Developer shall submit a pre-application or applications to the City for the Project Approvals. (§302.1)	Within 60 calendar days of the Date of Agreement.

Exhibit A

Action	Date
8. Development Application for Project Approvals. Developer shall submit an application or applications to the City for the Project Approvals including all information required by the City's application checklist. . (§302.1)	On or before June 30, 2026.
9. Project Approvals. Developer shall receive all Project Approvals	Prior to the Closing.
10. Subdivision Map. Developer shall prepare a plat map and legal description of the portion of the Senior Center Site to be conveyed by the City to the Developer removing those portions of the Senior Center Site that are improved with the existing City library, City Hall, City gymnasium, public tennis courts, bocce ball courts, (the "Senior Center Conveyance Parcel") and the Retained Site. (§302.3)	On or before June 30, 2026.
11. Preliminary Financing Report. Developer shall submit the Preliminary Financing Report to City. (§501.1)	Within 30 days of obtaining Project Approvals.
12. Evidence of Financing. Developer shall provide City with evidence of submittal of applications for Project Financing as identified in approved Preliminary Financing Report. (§ 501.2)	Within 10 calendar days following submittal of application by Developer pursuant to NOFA issued by federal, state or local agencies.
13. Approval of Evidence of Financing. City shall review the Evidence of Financing for the Project and provide Developer with notice of approval or disapproval. (§ 501.3)	Within 15 business days following submittal by Developer.

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Action	Date
14. General Contractor and Construction Contract. Developer shall notify City of the Developer's selection of the selected general contractor and the Construction Contract to be entered into for the work of the Project Improvements. (§ 305.1)	On or prior to 2 months before Closing.
15. Approval/Disapproval of General Contractor and Construction Contract. The City Manager shall approve or disapprove the proposed general contractor and the Construction Contract for the Project Improvements. (§ 305.1)	Within 15 business days following submittal by Developer.
16. Submittal of Marketing Plan. Developer shall submit the Marketing Plan to City for review and approval. (§ 402.3)	On or prior to 6 months before Completion.
17. Approval of Marketing Plan. City shall review the Marketing Plan and provide Developer with notice of approval or disapproval. (§ 402.3)	Within 45 calendar days following submittal.
18. Submittal of Supportive Services Plan. Developer shall submit the Supportive Services Plan to City for review and approval. (§ 402.4)	On or prior to 6 months before Completion.
19. Approval of Supportive Services Plan. City shall review the Supportive Services Plan and provide Developer with notice of approval or disapproval. (§ 402.4)	Within 45 calendar days following submittal.
20. Submittal of Site Management Plan. Developer shall submit a Site Management Plan to City for review and approval. (§ 402.5)	On or prior to 6 months before Completion.

Exhibit A

Action	Date
21. Approval of Site Management Plan. City shall review the Site Management Plan and provide Developer with notice of approval or disapproval. (§ 402.5)	Within 45 calendar days following submittal.
22. Insurance. Developer shall furnish evidence of required insurance to City. (§ 306)	Prior to Closing.
23. Closing of Construction Loan(s). Developer's construction loan(s) for the Project shall have closed. (§ 501.4)	Prior to or simultaneous with Closing.
24. Closing. City and Developer shall close Escrow and Convey the Site to Developer. (§202.4)	Within 10 days following satisfaction of all of City's and Developer's Conditions Precedent to Closing, but in no event later than Outside Date.
25. Record Subdivision Map. Developer shall secure City approval and execution of the Subdivision Map for the Site (both as owner of fee title to Site and in its regulatory capacity) and deliver to Escrow for recording in Official Records. (§302.3)	Prior to or concurrent with Closing.
26. Record Grant Deed. City and Developer shall execute the Grant Deed for the Site and deliver to Escrow for recording in Official Records. (§205.1(b), §205.2(b))	Concurrent with Closing.
27. Record Memorandum of Agreement for Site. City and Developer shall execute the Memorandum of Agreement for the Site and provide to Escrow for recording in Official Records. (§205.1(b), §205.2(b), §704)	Concurrent with Closing.

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Action	Date
28. Record Affordable Housing Covenant. City and Developer shall execute the Affordable Housing Covenant and provide to Escrow for recording against the Site in Official Records. (§205.1(b), §205.2(b), §405)	Concurrent with Closing.
29. Record Subordination Agreement – Affordable Units. Developer shall cause all lienholders to execute, acknowledge and provide a Subordination Agreement – Affordable Units to Escrow for recording against the Site in Official Records. (§205.1(b), §405.1)	Concurrent with Closing.
30. Reciprocal Easement Agreement. City and Developer shall execute the Reciprocal Easement Agreement and provide to Escrow for recording against the Site. (§301.1 (b))	Concurrent with Closing.
31. Deposit Purchase Price and Closing Costs. Developer shall have delivered the Purchase Price and Closing Costs into Escrow. (§ 205.1 (c) and (d))	Concurrent with Closing.
32. Schematic Plans. Developer shall submit schematic plans to the City for approval/disapproval. (§ 304.1)	Within 60 days of Project Approvals.
33. Approval of Schematic Plans. The City Manager shall approve or disapprove the Schematic Plans. (§ 304.1)	Within 15 business days following submittal by Developer.
34. Construction Drawings. Developer shall prepare and submit to City the Construction Drawings. (§ 304.2)	Concurrent with submittal of application for building permit for the Project Improvements.
35. Approval of Construction Drawings. The City Manager shall approve or disapprove the Construction Drawings. (§ 304.2)	Within 15 business days following submittal by Developer.

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Action	Date
36. Commencement of Construction. Developer shall Commence Construction of the Project Improvements. (§ 303)	Within 30 calendar days following Closing.
37. Completion of Construction. Developer shall complete construction of the Project Improvements. (§ 303)	Within thirty (30) months following Commencement of Construction.
38. Certificate of Completion. City shall provide a Certificate of Completion to Developer. (§ 310)	Within 30 days following satisfactory completion of the Project Improvements, as evidenced by City's issuance of a certificate of occupancy, and Developer's request therefor.

Exhibit A

Attachment No. 5

Affordable Housing Agreement & Declaration of Restrictive Covenants

Exhibit A

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Benicia
250 East L. Street
Benicia, CA 94510
Attention: City Clerk

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

AFFORDABLE SENIOR HOUSING REGULATORY AGREEMENT

AND

DECLARATION OF RESTRICTIVE COVENANTS

by and between

THE CITY OF BENICIA

and

EDEN BENICIA SENIOR INVESTORS LP

Exhibit A

This Affordable Senior Housing Regulatory Agreement and Declaration of Restrictive Covenants (this “**Agreement**”) is entered into effective as of _____, 20__ (the “**Effective Date**”) by and between the City of Benicia, a municipal corporation, (the “**City**”) and Eden Benicia Senior Investors LP, a California limited partnership (the “**Developer**”). The City and the Developer are referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. Developer is the owner of the real property located in the City of Benicia, California, more particularly described in Exhibit A attached hereto (the “**Property**”).

B. Developer acquired the Property from the City pursuant to that certain Disposition and Development Agreement (“**DDA**”) dated _____, 2026, as evidenced by that certain Memorandum of Disposition and Development Agreement, dated _____, 2026, and recorded in the official records of the Office of the County Clerk-Recorder of the County of Solano (“**Official Records**”), on _____, 2026, at Instrument No. _____.

C. Pursuant to the DDA, Developer is required to develop and construct a senior citizen housing development, as defined by Section 51.3 of the California Civil Code, on the Property which will include: (i) a total of _____ () rental units in three (3) buildings comprised of _____ () one-bedroom units, _____ () studio units all available at an Affordable Rent to Eligible Households, as defined herein (the “**Restricted Units**”), and two (2) 2-bedroom manager’s units (the “**Managers’ Units**”); (ii) a cold shell build out of approximately _____ square feet of space to be retained by the City; (iii) a pedestrian promenade open space of no less than _____ square feet; and (iv) a new podium and surface parking (collectively, the “**Project**”).

D. The DDA provides that the Restricted Units will be required to be available to Eligible Households at Affordable Rents in accordance with this Agreement for a period of fifty-five (55) years.

E. The purpose of this Agreement is to satisfy the requirements of the DDA and thereby regulate and restrict the occupancy and rents of the Restricted Units for the benefit of the Project. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Developer and Developer’s successors and assigns for the full Term of this Agreement.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1.1 Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

“**Actual household size**” means the actual number of persons in the applicable household.

“**Adjusted for family size appropriate for the unit**” shall have the meaning set forth in Section 50052.5 of the California Health and Safety Code, as amended or any successor statute thereto, subject to the application of federal rules and regulations, if applicable, to financing sources for all or a portion of the Project, including applicable federal and TCAC regulations.

Exhibit A

“Affordable Housing Monitoring Fee” is defined in Section 3.5.

“Affordable Housing Occupancy Date” means the date of issuance by City of a certificate of occupancy for the final Restricted Unit constructed on the Property, to be memorialized by the Parties through execution and recordation of the Certificate of Completion in accordance with Section 310 of the DDA.

“Affordable Rent” shall mean rental rates no greater than ELI Rent for Extremely Low Income Households, VLI Rent for Very Low Income Households, and LI Rent for Low Income Households, adjusted for family size appropriate to the Restricted Unit, determined in accordance with California Health and Safety Code Section 50053, as amended, or any successor statute thereto; provided, however, in no event shall the maximum affordable rent be higher than 20 percent below the median market rate rents for the neighborhood in which the Site is located; and provided, further that for lower income households with gross incomes that exceed 60 percent of the Area Median Income adjusted for family size appropriate to the unit, rental rates may be established at a level not to exceed 30 percent of Gross Income of the household. Notwithstanding the foregoing, if applicable to financing sources for all or a portion of the Project, during the fifteen (15) year tax credit compliance period under Internal Revenue Code Section 42, or such longer term of the regulatory agreement to be executed by TCAC and Developer and recorded against the applicable portion of the Project, the City hereby permits Developer to use the occupancy standards and rent levels required by TCAC.

“Agreement” means this Affordable Senior Housing Regulatory Agreement And Declaration of Restrictive Covenant between City and Developer.

“Annual Report” is defined in Section 3.2.

“Area Median Income” or “AMI” means the median household income (adjusted for family size appropriate to the unit) of the Metropolitan Statistical Area in which Solano County is located, as established pursuant to California Health and Safety Code Sections 50093 and 50105, as amended or any successor statute thereto, or as applicable, the median income for Solano County, California, adjusted for family size appropriate to the unit, as determined by TCAC regulations.

“City” means the City of Benicia, a California municipal corporation.

“City Documents” means this Agreement, the DDA, the Project Approvals, and the Certificate of Completion (as defined in the DDA).

“City’s Authorized Representative” means the City Manager of the City of Benicia.

“Claims” is defined in Section 2.6.

“DDA” is defined in Recital B.

“Developer” means Eden Benicia Senior Investors LP, a California limited partnership.

Exhibit A

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

“Eligible Household” means an Extremely Low-Income Household, Very Low-Income Household, or Low-Income Household qualified in accordance with the terms of this Agreement and Sections 50106, 50105 and 50079.5, respectively, of the California Health and Safety Code, as amended or any successor statute thereto, and which includes at least one member who is age 55 or older or other qualifying resident as defined in California Civil Code Section 51.3.

“ELI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times thirty percent (30%) of AMI, adjusted for family size appropriate to the unit.

“Event of Default” is defined in Section 9.1.

“Extremely Low-Income Household” is defined in Section 50106 of the California Health and Safety Code, as amended or any successor statute thereto.

“Gross Income” shall mean the combined, gross, pre-tax income of all adult occupants of the applicant household, as calculated under Section 6914 of Title 25 of the California Code of Regulations as such section may be revised from time to time.

“HCD” means the State of California, Department of Housing and Community Development.

“HUD” means the U.S. Department of Housing and Urban Development.

“Indemnitees” is defined in Section 2.6.

“LI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times eighty percent (80%) of AMI, adjusted for family size appropriate to the unit.

“Low-Income Household” is defined in Section 50079.5 of the California Health and Safety Code, as amended, or any successor statute thereto.

“Managers’ Units” is defined in Recital C.

“Marketing and Management Plan” is defined in Section 6.5.

“Official Records” as defined in Recital B means the Official Records of the Office of the County Clerk-Recorder of the County of Solano, California.

“Partnership Agreement” is defined in Section 8.2.

“Party” and **“Parties”** are defined in the introductory paragraph of this Agreement.

“Project” is defined in Recital C.

“Project Approvals” is defined in Section 302.1 of the DDA.

Exhibit A

“Project Improvements” is defined in Section 301 of the DDA and means the improvements to be designed and constructed by Developer on the Property in accordance with the Project Approvals for the Project.

“Property” is defined in Recital A and more particularly described in the legal description attached hereto as Exhibit A.

“Property Manager” is defined in Section 6.7.

“Relocation Laws” is defined in Section 2.6.

“Rent” means the monthly payment for the use and occupancy of a Restricted Unit.

“Restricted Units” is defined in Recital C and means a residential dwelling unit that is reserved for occupancy at an Affordable Rent for Eligible Households of specified household income levels as set forth in Section 2.2 and Exhibit B.

“Schedule of Performance” means the Schedule of Performance attached as Attachment No. 4 to the DDA, setting out the dates and/or time periods by which certain obligations of City and Developer set forth in the DDA must be accomplished.

“Site Management Plan” is defined in Section 6.7.

“Supportive Services Plan” is defined in Section 6.6.

“Tenant Data” is defined in Section 3.4.3.

“Term” or ***“Term of this Agreement”*** is defined in Section 4.1.

“Third Party Lender” is defined in Section 8.6.

“Transfer” is defined in Section 8.1.

“Very Low-Income Household” is defined in Section 50105 of the California Health and Safety Code, as amended or any successor statute thereto.

“VLI Rent” means monthly Rent that does not exceed one-twelfth of thirty percent (30%) times fifty percent (50%) of AMI, adjusted for family size appropriate to the unit.

2. Use and Affordability Restrictions. Developer hereby covenants and agrees, for itself and its successors and assigns, that throughout the Term of this Agreement, the Property shall be used solely for residential occupancy by Eligible Households in compliance with the DDA and the requirements set forth in this Agreement. Developer represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement, and Developer covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of City. For the purpose of this Section, other regulatory and similar agreements

Exhibit A

that impose more stringent affordability and occupancy restrictions on the Project than those set forth in this Agreement shall not be deemed to be inconsistent with this Agreement.

2.1 Senior Housing. Developer has elected to operate the Project as a senior citizen housing development and as such to require all dwelling units in the Project except for the managers' units to be occupied or held available for occupancy by households that include "elderly" or "senior" residents in accordance with applicable law. To the extent applicable, the Project will be operated at all times in accordance with (a) the Unruh Act, including without limitation California Civil Code Sections 51.2, 51.3, and 51.4; (b) the federal Fair Housing Act, 42 U.S.C. Section 3607(b) and 24 CFR 100.304; (c) the California Fair Employment and Housing Act, Government Code Section 12900 *et seq.*, and (d) all other applicable laws and regulations. Developer shall develop and implement appropriate age verification procedures to ensure compliance with this Section 2.1, and shall provide City with a copy of such verification procedures. To the greatest extent permitted by law, Developer will indemnify, defend, and hold the Indemnitees harmless from all Claims arising out of Developer's failure to comply with applicable legal requirements related to housing for seniors. Developer's indemnification obligations set forth in this Section (i) shall survive the expiration or earlier termination of this Agreement, and (ii) shall not extend to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees.

2.2 Affordability, Occupancy and Rent Requirements. Throughout the Term of this Agreement (as defined in Section 4.1 below): (i) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Extremely Low-Income Households at Rent not to exceed ELI Rent; (ii) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Very Low-Income Households at Rent not to exceed VLI Rent; and (iii) not less than _____ () of the Restricted Units in the Project shall be occupied (or if vacant, available for occupancy) by Low Income Households at Rent not to exceed LI Rent.

The Restricted Units shall be allocated among unit size and affordability categories as set forth in Exhibit B. Further, as previously noted herein, two (2) of the residential units in the Project shall be Managers' Units that will not be subject to rent or occupancy restrictions. Notwithstanding the foregoing, no tenant qualifying for a Restricted Unit shall be denied continued occupancy of a Restricted Unit in the Project because, after admission, such tenant's household income increases to exceed the qualifying limit for such Restricted Unit. A household which at initial occupancy qualifies in a particular income category shall be treated as continuing to be of such income category so long as the household's Gross Income does not exceed one hundred forty percent (140%) of the applicable income limit. In the event the household Gross Income of a household that qualified at the applicable income limit at initial occupancy exceeds the applicable income limit for a Restricted Unit, that Restricted Unit will continue to be considered as satisfying the applicable income limit.

In the event that recertification of tenant incomes indicates that the number of Restricted Units actually occupied by Eligible Households falls below the number reserved for each income group as specified in Exhibit B, Developer shall rectify the condition by renting the next available dwelling unit(s) in the Project to Eligible Household(s) until the required income mix is achieved.

Exhibit A

If upon income recertification, a tenant household's income exceeds eighty percent (80%) of AMI Adjusted for Actual Household Size, Developer may increase the Rent for such tenant to the lowest of the following: (a) one twelfth of thirty percent (30%) of the tenant household's Gross Income, (b) the maximum rent allowed under any affordability restrictions imposed by other Project lenders, and (c) if the Project has been allocated low-income housing tax credits, the maximum rent allowed by Section 42 of the Internal Revenue Code of 1986, as amended.

In the event of inconsistency between the provisions of this Section 2.2 and the rules applicable to the Project in connection with low-income housing tax credits, the rules applicable to low-income housing tax credits shall prevail.

2.3 Managers' Units. Two (2) dwelling units in the Project may be used as resident Managers' Units, shall not be considered as Restricted Units, and shall be exempt from the occupancy and rent restrictions set forth in this Agreement.

2.4 No Condominium Conversion. Developer shall not convert the Restricted Units in the Project to condominium or cooperative ownership or sell condominium or cooperative rights to the Restricted Units in the Project during the Term of this Agreement.

2.5 Non-Discrimination; Compliance with Fair Housing Laws.

2.5.1 Fair Housing; Section 8 Vouchers. Developer shall comply with state and federal fair housing laws in the marketing and rental of the units in the Project. Developer shall accept as tenants, on the same basis as all other prospective tenants, seniors who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing Section 8 program or any successor thereto.

2.5.2 Non-Discrimination. Developer shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, gender identity, disability, marital status, ancestry, age (other than as permitted pursuant to this Agreement and applicable law pertaining to housing for seniors), or national origin of any person. Developer covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition 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 rental, sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property or part thereof, nor shall Developer or any person claiming under or through Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or part thereof. Developer shall include such provision in all deeds, leases, contracts, and other instruments executed by Developer, and shall enforce the same diligently and in good faith.

Exhibit A

All deeds, leases, and contracts pertaining to management of the Project, made or entered into by Developer, its successors or assigns, as to any portion of the Property or the Project Improvements shall contain the following language:

(a) (1) In Deeds, the following language shall appear:

Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of a person or of a 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 property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.”

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

(b) (1) In Leases, the following language shall appear:

The lessee herein covenants by and for the lessee and lessee’s heirs, personal representatives and assigns, and all persons claiming under the lessee or through the lessee, that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased.

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

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of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(c) (1) In Contracts pertaining to management of the Project, the following language, or substantially similar language prohibiting discrimination and segregation shall appear:

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 property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to selection, location, number, use or occupancy of tenants, lessee, subtenants, sublessees, or vendees of the land.

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

2.6 Relocation. Persons residing on the Property prior to commencement of construction of the Project, shall not be displaced before suitable replacement housing is available. Developer shall ensure that all occupants of the Property receive all notices, benefits, and assistance to which they are entitled in accordance with California Relocation Assistance Law (Government Code Section 7260 *et seq.*), all state and local regulations implementing such law, and all other applicable local, state, and federal laws, regulations and policies, including but not limited to the Uniform Relocation Act (42 U.S.C. § 4601 *et seq.*) and implementing regulations (collectively “**Relocation Laws**”) relating to the displacement and relocation of eligible persons as defined in such Relocation Laws. All costs incurred in connection with the temporary and/or permanent displacement and/or relocation of occupants of the Property, including without limitation payments to a relocation consultant, moving expenses, and payments for temporary and permanent relocation benefits pursuant to Relocation Laws shall be paid by Developer, and City shall have no responsibility for payment therefor.

To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the City and the City, and their respective elected and appointed officers, officials, employees, agents, consultants, contractors, and representatives (collectively, the “**Indemnitees**”) harmless from and against all liability, loss, cost, expense (including without limitation attorneys’ fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing

Exhibit A

collectively “**Claims**”) arising from the breach of Developer’s obligations set forth in this Section whether or not any insurance policies shall have been determined to be applicable to any such Claims. Developer’s indemnification obligations set forth in this Section (i) shall survive the expiration or earlier termination of this Agreement, and (ii) shall not extend to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees.

3. Reporting Requirements; Access to Information; Inspections; Annual Monitoring Fee.

3.1 Tenant Certification. Developer or Developer’s authorized agent shall obtain from each prospective tenant prior to initial occupancy of each Restricted Unit, and on every anniversary thereafter, a written certificate containing all of the following in such format and with such supporting documentation as City may reasonably require:

- (i) The identity of each household member;
- (ii) The total household Gross Income; and
- (iii) The age of each household member or other basis upon which each household member qualifies for occupancy under California Civil Code Section 51.3 *et seq.*

Developer shall retain such certificates for not less than five (5) years, and upon City’s request, shall provide copies of such certificates to City and make the originals available for City inspection.

3.2 Annual Report; Inspections. By not later than April 1 of each year during the Term of this Agreement, commencing in the year following completion of construction of the Project, Developer shall submit a report describing operations of the Project during the preceding calendar year (“**Annual Report**”) to the City in form satisfactory to City, together with a certification that the Project is in compliance with the affordability restrictions and occupancy requirements of this Agreement. The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Project: (i) unit number; (ii) number of bedrooms; (iii) current rent, utility, and other charges; (iv) dates of any vacancies during the previous year; (v) number of people residing in the unit; (vi) total household Gross Income of residents; (vii) documentation of source of household income; (viii) lease commencement and termination dates; (ix) initial move-in date; and (x) the information required by Section 3.1.

Developer shall include with the Annual Report documentation verifying tenant eligibility, and such additional information as City may reasonably request from time to time in order to demonstrate compliance with this Agreement. The Annual Report shall conform to the format requested by City; provided however, during such time that the Project is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of state or federal low-income housing tax credits or tax-exempt bond financing, Developer may satisfy the requirements of this Section that pertain to tenant income certification and rents by providing City with a copy of compliance reports required in connection with such financing.

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In addition to the information described above, the Annual Report shall include the following:

- (i) A Project income and expense statement for the reporting period;
- (ii) Proposed annual budget for the next fiscal year which sets forth Developer's estimate of operating income, operating expenses and debt service for the year, amounts payable to reserves and proposed rent adjustments;
- (iii) Information on the status of the waiting list for units, including the number of households on the list;
- (iv) A report on reserve accounts which Developer is required to maintain for the Project, including an operating reserve and replacement reserve account, if applicable, summarizing draws of funds from such reserve account(s) during the prior calendar year and remaining balances;
- (v) A report summarizing any significant repairs or maintenance undertaken for the Project during the prior calendar year and describing any remaining physical defects to be corrected and the budget for such work;
- (vi) A financial audit of the books and records of the Project prepared in accordance with generally accepted auditing standards by an independent certified public accountant.; provided however, if in the ordinary course of business regarding the audit of Developer's books and records concerning the Project, the audit is not reasonably available at the time the Annual Report is submitted, Developer shall provide a copy of such audit to the City promptly when the same has been received by Developer;
- (vii) City may, from time to time, request additional or different information, and Developer shall promptly supply such information in the reports required hereunder.

3.3. Maintenance of Records.

3.3.1 Developer shall maintain all records regarding the construction of the Project for five (5) years after final payment and all other pending matters are closed. Developer shall also maintain tenant leases, income certifications, and other matters related to the leasing of the Project for a period of five (5) years after the final date of occupancy by the tenant.

3.3.2 Records must be kept accurate and up-to-date. City shall notify Developer of any records it deems insufficient. Developer shall have fifteen (15) calendar days from such notice to correct any specified deficiency in the records; or, if more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Developer shall begin to correct the deficiency within fifteen (15) days and diligently pursue the correction of the deficiency as soon as reasonably possible.

3.4 Access to Records; Inspections.

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3.4.1 With at least five (5) business days' written notice, during normal business hours, Developer shall provide City and its authorized agents and representatives access to the books, documents, papers and records of the Project for the purpose of making audits, examinations, excerpts and transcriptions.

3.4.2 With at least two (2) business days' written notice, during normal business hours and as often as may be deemed necessary, City and its authorized agents and representatives shall be permitted access to and the right to examine the Project and the Property and to interview tenants and employees of the Project, for the purpose of verifying compliance with applicable regulations and compliance with the conditions of this Agreement and the other City Documents.

3.4.3 City shall comply with all applicable provisions of law pertaining to the protection of personal financial and/or identifying information of tenants provided to, or made available to City for inspection pursuant to this Agreement, including without limitation, the provisions of California Civil Code Sections 1798.80 through 1798.84, to the extent applicable to the City. All tenant files, leases, certifications, income verification documentation, and any other documents that may contain personal financial or identifying information of any tenant (collectively referred to as "**Tenant Data**") to be provided by the Developer to the City or any third party on the City's behalf, shall be made available for review by City or its representatives either on-site at the Property or via an internet-based document sharing platform selected by Developer. The City and its representatives agree to comply with all applicable laws with respect to the handling, maintenance and protection of Tenant Data, including, but not limited to, the provisions of Sections 1798.80 through and including 1798.84 of the California Civil Code, as amended.

3.5 Affordable Housing Monitoring Fee. Developer shall be obligated to pay to City an annual fee for the City's costs of monitoring Developer's compliance with the Agreement in the amount designated in the City's Master Fee Schedule, as may be amended from time to time, per unit for each Restricted Unit in the Project (the "**Affordable Housing Monitoring Fee**"). The Affordable Housing Monitoring Fee shall be due to City by not later than April 1 of each year during the Term of this Agreement, commencing in the year following recording of the Certificate of Completion in the Official Records in accordance with Section 310 of the DDA.

In the event that in any year there is insufficient Project cash flow available to pay the Affordable Housing Monitoring Fee, the City will permit the fee to be deferred. Any deferred amounts shall accrue and shall be payable from future Project cash flow.

Notwithstanding anything to the contrary contained in this Section 3.5, Developer shall not be required to pay any Affordable Housing Monitoring Fee for any given year provided that Developer complies with the Annual Report requirements set forth in Section 3.2 herein.

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4. Term of Agreement.

4.1 Term of Restrictions. This Agreement shall remain in effect until the fifty-fifth (55th) anniversary of the Affordable Housing Occupancy Date (the “**Term**”).

4.2 Effectiveness Succeeds Conveyance of Property. This Agreement shall remain effective and fully binding for the full Term hereof regardless of any sale, assignment, transfer, or conveyance of the Project or the Property, or any part thereof or interest therein.

4.3 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the Term.

5. Binding Upon Successors; Covenants to Run with the Land. Developer hereby subjects its interest in the Property and the Project to the covenants and restrictions set forth in this Agreement. The City and Developer hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Developer and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Developer, including without limitation any purchaser, transferee or lessee of the Property or the Project (other than the tenants of the individual dwelling units within the Project) shall be subject to all of the duties and obligations imposed hereby for the full Term of this Agreement.

Commencing upon the Effective Date of this Agreement, each and every contract, deed, ground lease, or other instrument affecting or conveying the Property or the Project or any part thereof, shall conclusively be deemed to have been executed, delivered, and accepted subject to the covenants, restrictions, duties, and obligations set forth herein, regardless of whether such covenants, restrictions, duties, and obligations are set forth in such contract, deed, ground lease, or other instrument. Developer agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Property and the Project in favor of City.

6. Property Management; Repair and Maintenance; Marketing; Reserves; Supportive Services.

6.1 Management Responsibilities. Developer shall be responsible for all management functions with respect to the Property and the Project, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. City shall have no responsibility for management or maintenance of the Property or the Project.

6.2 Management Entity. City shall have the right to review and approve the qualifications of the property management entity proposed by Developer for the Project, and shall have the right to review and approve any property management agreement executed between

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Developer and such entities, which approvals shall not be unreasonably withheld. The contracting of management services to a management entity shall not relieve Developer of its primary responsibility for proper performance of management duties. City hereby approves Eden Housing Management, Inc. as the initial property management entity for the Project. Any subsequent management entity shall be subject to City review and approval, which shall not be unreasonably withheld or delayed.

6.3 Repair, Maintenance and Security. Throughout the Term of this Agreement, Developer shall at its own expense, maintain the Property and the Project in good physical condition, in good repair, and in decent, safe, sanitary, habitable, and tenantable living condition in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations, reasonable wear and tear excepted. Without limiting the foregoing, Developer agrees to use reasonable efforts to maintain the Project and the Property (including without limitation, the apartment units therein, common areas, meeting rooms, landscaping, driveways, parking areas, and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Project. Developer shall take reasonable action to prevent and/or rectify any physical deterioration of the Property and the Project and shall make all repairs, renewals, and replacements reasonably necessary to keep the Property and the Project Improvements located thereon in good condition and repair. Developer shall provide adequate security measures for the Project, including without limitation, the installation of adequate lighting and deadbolt locks.

6.3.1 Additional Requirements. All construction/rehabilitation work and professional services for the Project shall be performed by persons or entities licensed or otherwise authorized to perform the applicable work or service in the State of California and shall have a current City of Benicia business license if required under local law. To the extent allowed by state and federal laws, Developer shall use reasonable efforts to limit the installation of satellite dish, antenna, and other such equipment to screened locations on the Property as approved by the City. Developer shall diligently work to resolve complaints related to noise, parking, litter or other neighborhood concerns.

6.4 City's Right to Perform Maintenance. In the event that Developer breaches any of the covenants contained in Section 6.3, and such default continues for a period of ten (10) days after written notice from City to Developer which notice identifies in reasonable detail the item or matters which City has determined to be in default (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City to Developer identifying items in default (with respect to landscaping, building improvements, and general maintenance), or if such default is of a nature that it cannot be cured within such ten (10) or thirty (30) days, as applicable, Owner shall have such additional time as is reasonably necessary to cure such default so long as Owner commences cure within such initial ten (10) or thirty (30) day period, as applicable, and diligently pursues such cure to completion, then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the Project Improvements and the landscaped areas on the Property. All costs expended by City in connection with the foregoing, shall constitute an indebtedness of Developer, and shall be paid by Developer to City upon written demand by City accompanied by a description of the work performed and costs incurred by City.

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All such sums remaining unpaid thirty (30) days following delivery of City's invoice therefor shall bear interest at the lesser of ten percent (10%) per annum or the highest rate permitted by applicable law. If authorized by California law, City shall have a lien against the Property for the amount of such unpaid sums and shall have the right to record a Notice of Claim of Lien against the Property.

6.5 Marketing and Management Plan; Rental Agreements. Not later than the time provided for in the Schedule of Performance, Developer shall submit for City review and approval, which approval will not be unreasonably withheld, conditioned or delayed, a plan for marketing the Restricted Units ("**Marketing and Management Plan**"). The Marketing and Management Plan shall address in detail how Developer plans to market the Restricted Units to prospective Eligible Households in accordance with fair housing laws and this Agreement, Developer's tenant selection criteria, and how Developer plans to certify the eligibility of Eligible Households. The Marketing and Management Plan shall also describe the management team and shall address how the Developer and the management entity plan to manage and maintain the Property and the Project in accordance with the Site Management Plan required pursuant to Section 6.7. In addition, the Marketing and Management Plan shall include information regarding the qualifications of the proposed social services provider, and a description of the services to be provided to residents in accordance with the Supportive Services Plan required pursuant to Section 6.6.

The Marketing and Management Plan shall include a copy of (i) the Site Management Plan and proposed agreement between Developer and the management entity, (ii) the Supportive Services Plan and proposed agreement between Developer and the social services provider, and (iii) the form of rental agreement that Developer proposes to enter into with tenants of Restricted Units. Developer shall abide by the terms of the approved Marketing and Management Plan and attendant Site Management Plan and Supportive Services Plan in marketing, operating, managing, and maintaining the Property and the Project, and throughout the Term of this Agreement, shall submit any proposed modifications to any of said plans to City for its review and approval.

In addition to the foregoing, the Marketing and Management Plan shall address the following:

- (a) The actions to be taken by Developer to affirmatively market units in compliance with fair housing laws and in compliance with City's policies and procedures, including the policies described in Section 2.6 above;
- (b) Criteria for determining tenant eligibility, including certification of household income and size, age of household members or other qualifying criteria, and establishing reasonable occupancy standards (which occupancy standards shall be consistent with applicable local, state and federal fair housing laws and state housing and building codes), and procedures for screening prospective tenants, including obtaining credit reports, unlawful detainer reports, landlord references, and criminal background investigations, if permitted by applicable California law;
- (c) A requirement that eligible applicants be selected for tenancy in the Project based on order of application, lottery or other reasonable method approved by City;

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(d) A requirement that eligible applicants be notified of eligibility and be provided an estimate regarding when a unit may be available;

(e) A requirement that ineligible applicants be notified of the reason for their ineligibility;

(f) Specific procedures through which applicants deemed to be ineligible may appeal this determination;

(g) Maintenance of a waiting list of eligible applicants;

(h) Specific procedures for obtaining documentation regarding prospective tenants' incomes, as necessary, to certify that such income does not exceed allowable income limits;

(i) Specific procedures for certification and recertification of household incomes and procedures for handling over-income tenants;

(j) A requirement that a written rental agreement (in form approved by City) be executed with each Eligible Household selected to occupy a Restricted Unit;

(k) A detailed listing of reasonable rules of conduct and occupancy which shall be in writing, shall be consistent with federal and state law, and shall be provided to each tenant upon occupancy;

(l) A requirement that there be no storage on balconies and patios and that tenants must keep all balconies, patios, and other exterior areas neat, clean, and clutter free, including no clotheslines or laundry;

(m) A parking management plan which details, among other things, how parking spaces will be assigned, how guest parking will be handled and how parking will be managed to encourage tenants to use their assigned parking spaces;

(n) Procedures for maintenance and management of the Project;

(o) Procedures for dealing with tenant or neighborhood issues or concerns;

(p) Procedures for maintaining required Project reserve accounts, budgeting for maintenance and repair needs as well as long-term rehabilitation needs, and handling net cash flow; and

(q) Such other requirements and criteria/procedures as City may reasonably determine appropriate.

6.6 Supportive Services Plan. Developer shall be responsible for ensuring that adequate supportive services are provided to residents of the Restricted Units, as more particularly set forth herein. Within the time established in the Schedule of Performance, Developer shall

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submit to City a residential supportive services plan, in a form acceptable to City (“**Supportive Services Plan**”), the identity and qualifications of the proposed supportive services provider, and the proposed supportive services agreement for City’s review and approval.. The City Manager shall approve or disapprove the proposed Supportive Services Plan, proposed supportive services provider, and the proposed supportive services agreement within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Supportive Services Plan, proposed supportive services provider, or the proposed supportive services agreement, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any newly submitted Supportive Services Plan, proposed supportive services provider, and proposed supportive services agreement in the same manner and within the same time established in the Schedule of Performance. City hereby approves Eden Housing Resident Services, Inc. as the initial supportive service provider entity for the Project.

The Supportive Services Plan shall address the following, to the extent applicable:

- (a) A description of the target population and anticipated needs of tenants;
- (b) A description of how needs will be identified on an initial and ongoing basis including needs assessment, case management and monitoring;
- (c) Identification of service provider including point of contact, staffing levels, location of coordination services and hours of operation, service request procedures and confidentiality measures;
- (d) A description of supportive services offered to tenants (e.g., case management, benefits enrollment and assistance, legal aid, nutrition/meals, health and wellness support, activities and socialization, independent living skills), if any. Include where and how the service will be delivered, the frequency of the service delivery and the service provider;
- (e) Identification of key funding and community partners such as community organizations, healthcare providers, transportation agencies, etc.;
- (f) Accessibility and inclusivity of services including reasonable accommodations, language access and translation;
- (g) Procedures for emergency and crisis support, including coordination with emergency service providers, wellness checks, emergency and evacuation planning;
- (h) Service provider accountability, including resident feedback mechanisms and procedures for tracking, evaluating and measuring outcomes; and
- (i) Any required compliance statements required by funding sources.

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6.7 Site Management Plan. Developer shall be responsible for ensuring that a person with the requisite skill and experience managing multi-family residential developments (“**Property Manager**”) lives on the Property in the Manager’s Units. Further, Developer shall be responsible for addressing in detail their plan to provide for the maintenance, repair (both routine and extraordinary), and rehabilitation of the Restricted Units, replacement of capital items in the Restricted Units, and implementation of the requirements of the Project Approvals (“**Site Management Plan**”). Within the time established in the Schedule of Performance, Developer shall submit to City a Site Management Plan, the identity and qualifications of the proposed site management provider, the proposed site management agreement, for City’s review and approval, and any subsequent amendments thereto during the Term of this Agreement. The City Manager shall approve or disapprove the proposed Site Management Plan, proposed site management provider, proposed site management agreement, and any amendments thereto, within the time established in the Schedule of Performance. Approval shall not be unreasonably withheld or delayed. If the City Manager disapproves the Site Management Plan, proposed site management provider, proposed site management agreement, or any amendments thereto, the City Manager shall do so by written notice to Developer stating the reasons for such disapproval. The City Manager shall approve or disapprove any amendments to the Site Management Plan, proposed site management provider, and proposed site management agreement in the same manner established in the Schedule of Performance.

The Site Management Plan shall address the following:

- (a) Overview of the facility including property type, unit mix, and target populations;
- (b) Property management structure including: ownership entity, property management company and on-site staff, off-site management functions (if applicable), and hours and emergency contact protocols for the property manager and maintenance supervisor;
- (c) Staffing plan that identifies total full-time and part-time positions, on-site hours of operation, qualifications and training regulatory obligations including Fair Housing Act and “mandated reporter” duties;
- (d) Financial management controls including rent collection policies (due date, late payment, rent increases and notices, payment methods, and eviction prevention);
- (e) Facility maintenance including preventative maintenance inspection schedule, work order procedures and timelines, unit turnover procedures, and capital needs planning;
- (f) Safety and security systems including controlled access systems, lighting, emergency call systems, incident reporting, and coordination with first responders (police/fire/EMS); and

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(g) Emergency preparedness including fire safety/evacuation procedures, extreme weather response, and power outages. Staff roles, communication methods and special assistance needs for residents with disabilities should be described.

6.8 Approval of Amendments. If City has not responded to any submission of the Management and Marketing Plan, the proposed management entity, the proposed management agreement, the form of lease agreement, the Supportive Services Plan, the proposed supportive services provider, the proposed supportive services agreement, the Site Management Plan, the proposed site management provider, the proposed site management agreement, or any proposed amendment or change to any of the foregoing within twenty (20) business days following City's receipt of such plan, proposal, agreement, or amendment, the plan, proposal, agreement, or amendment shall be deemed approved by City.

6.9 Fees, Taxes, and Other Levies. Developer shall be responsible for payment of all fees, assessments, taxes, charges, liens, and levies applicable to the Property or the Project, including without limitation possessory interest taxes, if applicable, imposed by any public entity, and shall pay such charges prior to delinquency. However, Developer shall not be required to pay any such charge so long as (a) Developer is contesting such charge in good faith and by appropriate proceedings; (b) Developer maintains reserves adequate to pay any contested liabilities; and (c) on final determination of the proceeding or contest, Developer immediately pays or discharges any decision or judgment rendered against it, together with all costs, charges, and interest. The foregoing is not intended to impair Developer's ability to apply for any applicable exemption from property taxes or other assessments and fees. Nothing in this Section is intended to impair Developer's right to seek a "welfare exemption" from the payment of ad valorem real property taxes assessed against the Property under California Revenue and Taxation Code Section 214(g).

6.10 Insurance Coverage. Throughout the Term of this Agreement, Developer shall comply with the insurance requirements set forth in Exhibit C, and shall, at Developer's expense, maintain in full force and effect insurance coverage as specified in Exhibit C.

6.11 Property Damage or Destruction. If any part of the Project is damaged or destroyed, Developer shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced as soon as reasonably practicable after the damage or loss occurs and shall be completed within one year thereafter or as soon as reasonably practicable, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible. .

7. Recordation; No Subordination. This Agreement shall be recorded in the Official Records and shall not be subordinated to any deeds of trust provided for the benefit of lenders identified in the Evidence of Financing submitted to, and approved by, City for the Project, pursuant to the DDA.

8. Transfer and Encumbrance.

8.1 Restrictions on Transfer and Encumbrance. During the Term of this Agreement, Developer shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively,

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“**Transfer**”) of the whole or any part of the Property, the Restricted Units, the Project, or the Project Improvements located on the Property, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the Term of this Agreement, except as expressly permitted by this Agreement, Developer shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a “significant change of ownership” shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the ownership and /or control of Developer, taking all previous transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner and/or special limited partner, nor the transfer by the investor limited partner and/or special limited partner to subsequent limited partners or special limited partner, as applicable, nor the transfer of the Project, Property and/or Improvements to a general partner, or an affiliate of a general partner of the Developer, pursuant to an option or right of first refusal granted such parties pursuant to Developer’s agreement of limited partnership (the “**Partnership Agreement**”) shall be restricted by this provision.

8.2 Transfers. Subject to Section 8.3 below, the prohibitions set forth in this Article 8 shall not be deemed to prevent: (i) the granting of temporary or permanent easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to the City Documents; (iii) the lease of individual residences to tenants for occupancy as their principal residence in accordance with this Agreement; (iv) assignments creating security interests (including without limitation, collateral assignments of partnership equity interests) for the purpose of financing the acquisition, construction, rehabilitation, or permanent financing of the Project or the Property, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; (v) the admission of limited partners and any transfer of limited partnership interests in accordance with the Partnership Agreement; (vi) the removal of the general partner of the Developer by the investor limited partner for cause in accordance with the terms of the Partnership Agreement, provided that the replacement general partner is an entity reasonably satisfactory to City or is an affiliate of the investor limited partner that will serve as general partner for an interim period of no more than one hundred eighty (180) days during which time a permanent replacement general partner reasonably satisfactory to City shall be identified and admitted; or (vii) the transfer of the general partner’s interest to a nonprofit entity that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended (or to an entity wholly-owned thereby), provided such replacement general partner is reasonably satisfactory to City; or (viii) the transfer of the Project, Property and/or Improvements or the limited partner’s interest in the Developer to a general partner, or an affiliate of a general partner of the Owner, pursuant to an option or right of first refusal granted such parties pursuant to the Partnership Agreement.

8.3 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Property, the Project Improvements or part thereof if all of the following requirements are met (provided however, the requirements of this Section 8.3 shall not apply to Transfers described in clauses (i), (ii), (iii), (iv), and (v) of Section 8.2, and solely with respect to (a) the removal of the general partner by the investor limited partner for a default under the Partnership Agreement, and (b) the replacement of the general partner with an affiliate of the investor limited partner for an interim period of not more than one hundred eighty (180) days, clause (vi) of Section 8.2 (provided that the provisions of this

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Section 8.3 shall apply to the selection of a replacement general partner in the event of a removal of the general partner in accordance with clause (vi) of Section 8.2):

(i) The proposed transferee demonstrates to the City's satisfaction that it has the qualifications, experience, and financial resources necessary and adequate as may be reasonably determined by the City to competently complete construction and manage the Project and to otherwise fulfill the obligations imposed on the owner of the Property under this Agreement.

(ii) The transferor and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of all or any part of or interest in the Property, the Project Improvements, or this Agreement together with such documentation of the proposed transferee's qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Developer under this Agreement and the other City Documents arising after the effective date of the Transfer and all obligations of Developer arising prior to the effective date of the Transfer (unless Developer expressly remains responsible for such obligations) and shall agree to be subject to and assume all of the obligations pursuant to the Project Approvals and all other conditions, and restrictions set forth in this Agreement.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

Consent to any proposed Transfer may be given by the City's Authorized Representative unless the City's Authorized Representative, in his or her discretion, refers the matter of approval to the City Council. If the City has not rejected a proposed Transfer or requested additional information regarding a proposed Transfer in writing within forty-five (45) days following City's receipt of written request for such Transfer, the proposed Transfer shall be deemed approved.

8.4 Effect of Transfer without City Consent. In the absence of specific written agreement by the City, no Transfer of the Property or the Project shall be deemed to relieve the Developer or any other party from any obligation under this Agreement. It shall be an Event of Default hereunder entitling City to pursue remedies if without the prior written approval of the City, Developer assigns or Transfers this Agreement, the Project Improvements, or the Property in violation of Section 8. This Section 8.4 shall not apply to Transfers described in clauses (i), (ii), (iii), (iv), and (v) of Section 8.2, and solely with respect to (a) the removal of the general partner by the investor limited partner for a default under the Partnership Agreement, and (b) the replacement of the general partner with an affiliate of the investor limited partner for an interim period of not more than one hundred eighty (180) days, pursuant to clause (vi) of Section 8.2.

8.5 Recovery of City Costs. Within ten (10) days following City's delivery of an invoice detailing such costs, the party proposing a Transfer shall reimburse City for all City costs, including but not limited to reasonable attorneys' fees, reasonably incurred in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee

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8.6 Encumbrances. Developer agrees to use best efforts to ensure that all deeds of trust or other security instruments recorded against the Property, the Project, or part thereof, for the benefit of a lender identified in the Evidence of Financing approved by City pursuant to the DDA (“**Third-Party Lender**”) shall contain each of the following provisions: (i) Third-Party Lender shall use reasonable efforts to provide to City a copy of any notice of default issued to Developer concurrently with provision of such notice to Developer; (ii) City shall have the reasonable right, but not the obligation, to cure any default by Developer within the same period of time provided to Developer for such cure extended by an additional ninety (90) days, and that such Third-Party Lender shall accept a cure made by the City with the same force and effect as if the cure had been made by Developer; (iii) provided that City has cured any default under Third-Party Lender’s deed of trust and other loan documents, City shall have the right to take title to the Property and the Project without acceleration of Third-Party Lender’s debt; and (iv) City shall have the right to transfer the Property and the Project without acceleration of Third-Party Lender’s debt to a nonprofit corporation or other entity which shall own and operate the Project as an affordable rental housing development, subject to the prior written consent of the Third-Party Lender. Developer agrees to provide to City a copy of any notice of default Developer receives from any Third-Party Lender within three (3) business days following Developer’s receipt thereof.

8.7 Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Property, and the purchaser at any trustee’s sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Unless this Agreement is subordinated in accordance with Section 7 above, such purchaser shall be bound by and subject to this Agreement from and after such trustee’s sale or foreclosure sale. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of any mortgages or deeds of trust encumbering the Project or the Property that such violation has occurred.

9. Default and Remedies.

9.1 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder (“**Event of Default**”):

- (i) The occurrence of a Transfer in violation of Section 8 hereof;
- (ii) Developer’s failure to maintain insurance on the Property and the Project as required hereunder, and the failure of Developer to cure such default within five (5) days;
- (iii) Subject to Developer’s right to contest the following charges, Developer’s failure to pay prior to delinquency taxes or assessments due on the Property or the Project or failure to pay when due any other charge that may result in a lien on the Property or the Project, and Developer’s failure to cure such default within twenty (20) days of delinquency, but in all events prior to the date upon which the holder of any such lien has the right to foreclose thereon;
- (iv) A default by the Developer arises under the DDA that remains uncured beyond the expiration of any applicable cure period; or

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(v) Developer's default in the performance of any term, provision or covenant under this Agreement (other than an obligation enumerated in this Section 9.1), and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days following written notice from City in the event of a monetary default or thirty (30) days following written notice from City in the event of a non-monetary default, or if the nature of any such non-monetary default is such that it cannot be cured within such thirty (30) day period, Developer's failure to commence to cure the default within thirty (30) days and thereafter prosecute the cure of such default to completion with due diligence and in good faith but in no event longer than ninety (90) days from receipt of the notice of default.

The limited partners of Developer shall have the right but not the obligation to cure any default of Developer hereunder upon the same terms and conditions afforded to Developer, and City will recognize a cure performed by a limited partner with the same force and effect as if the cure were performed by Developer; provided however, if the default is of such nature that the limited partners reasonably determine that it is necessary to replace the general partner of Developer in order to cure such default, then the applicable cure period shall be extended by an additional sixty (60) days following the removal and replacement of such general partner, provided that the limited partners have promptly commenced and diligently proceeded with all requisite actions to effect such removal and replacement. City shall provide a copy of any notice of default hereunder to the limited partners at the address set forth in Section 11.3 hereof, or to such other address provided to the City in writing, concurrently with the provision of such notice to Developer.

9.2 Remedies. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City may proceed with any of the following remedies:

- (i) Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;
- (ii) For violations of obligations with respect to rents for Restricted Units, impose a charge in an amount equal to the actual amount collected from a tenant in excess of the Affordable Rent; or
- (iii) Pursue any other remedy allowed under the City Documents or at law or in equity.

Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

10. Indemnity. To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against all Claims arising directly or indirectly, in whole or in part, as a result of or in connection with Developer's construction/rehabilitation, management, or operation of the Property and the Project, or Developer's employees', agents', contractors', or subcontractors' failure to comply with applicable law, including without limitation state and federal fair housing laws, or failure to perform any obligation as and when required by this Agreement. Developer's indemnification

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obligations under this Section 10 shall not extend to Claims to the extent resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 10 shall survive the expiration or earlier termination of this Agreement.

10.1 Terms Applicable to Indemnity Provisions. The terms set forth in this Section 10.1 shall apply to all provisions of this Agreement that pertain to Developer's obligations to indemnify City and the other Indemnitees, including without limitation, Section 10. In connection with each such provision, all of the following shall apply:

(a) City does not and shall not waive any rights that it may have by reason of any indemnity and hold harmless provision set forth in this Agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

(b) Developer's obligation to indemnify the Indemnitees shall not be limited or impaired by any of the following: (i) any amendment or modification of any City Document (unless and to the extent an indemnity provision was modified by such amendment or modification); (ii) any extensions of time for performance required by any City Document; (iii) any provision in any of the City Documents limiting the personal liability of Developer, or any other party under the City Documents; (iv) the accuracy or inaccuracy of any representation and warranty made by Developer under this Agreement or by Developer or any other party under any City Document, (v) the release of Developer or any other person, by City or by operation of law, from performance of any obligation under any City Document; (vi) the release or substitution in whole or in part of any security; and (vii) City's failure to properly perfect any lien or security interest given as security for performance of Developer's obligations under the City Documents.

(c) The obligations of Developer to indemnify the Indemnitees shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of this Agreement.

11. Miscellaneous.

11.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties and recorded in the Official Records.

11.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Developer of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

11.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing and sent to the Parties and the Investor Limited Partner at their respective addresses specified below or to such other address as a Party or the Investor Limited Partner, as applicable, may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is

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effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed to the sender by the delivery service.

City: City of Benicia
250 East L Street
Benicia, CA 94510
Attention: Mario Giuliani, City Manager
Telephone: (707)746-4289
Email: MGiuliani@ci.benicia.ca.us

With copy to: Burke, Williams & Sorensen, LLP
181 Third Street, Suite 200
San Rafael, CA 94901
Attention: Benjamin Stock, City Attorney
Telephone: (415) 755-2605
Email: bstock@bwslaw.com

Developer: Eden Benicia Senior Investors LP
c/o Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: Tami Strauss
Telephone: (510) 931-8210
Email: tami.strauss@edenhousing.org

With a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Evan Goss, Esq.
Telephone: (415)781-6600 ext. 6
Email: egoss@gubbbbarshay.com

11.4 Further Assurances. The Parties shall execute, acknowledge, and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

11.5 Parties Not Co-Venturers; Independent Contractor; No City Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of Developer and City shall not be construed as a joint venture, equity venture, partnership, or any other relationship. City neither undertakes nor assumes any responsibility or duty to Developer (except as expressly provided in the City Documents or in this Agreement) or to any third party with respect to the Project. Developer and its employees are not employees of City but rather are, and shall always be considered independent

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contractors. Furthermore, Developer and its employees shall at no time pretend to be or hold themselves out as employees or agents of City. Except as City may specify in writing, Developer shall not have any authority to act as an agent of City or to bind City to any obligation.

11.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent, or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City's Authorized Representative or by any person who shall have been designated by the City's Authorized Representative, without further approval by the City Council.

11.7 Non-Liability of Officials, Employees, and Agents. No member, official, officer, employee, or agent of a Party shall be personally liable to the other Party or any successor in interest to such Party, in the event of any default or breach by such Party, or for any amount of money which may become due to such Party or its successor or for any obligation of such Party under the City Documents or this Agreement. Notwithstanding the foregoing, nothing set forth in this Section shall be deemed to limit or restrict the ability of City to seek or obtain a judgment against Developer or to enforce against Developer and its general partners to:

(A) recover under any provision of any City Document that obligates Developer to indemnify City, or

(B) recover from Developer and its general partners compensatory damages as well as other costs and expenses incurred by City (including without limitation reasonable attorneys' fees and expenses) arising as a result of the occurrence of any of the following: (a) any fraud or intentional misrepresentation on the part of the Developer, or any general partner thereof, or any officer, director or authorized representative of Developer or any general partner thereof in connection with the request for City funds, or in any City Document, or in connection with any request for any action or consent by City in connection with City funds; (b) any failure to maintain insurance on the Property and the Project as required pursuant to the City Documents; (c) failure to pay taxes, assessments or other charges which may become liens on the Property or the Project (subject to the right to contest as set forth in the City Documents); (d) the presence of Hazardous Materials on the Property or other violation of the Developer's obligations under the City Documents pertaining to environmental matters; (e) the occurrence of any act or omission of Developer that results in waste to or of the Project or the Property and which has a material adverse effect on the value of the Project or the Property; (f) the removal or disposal of any personal property or fixtures or the retention of rents, insurance proceeds, or condemnation awards in violation of the City Documents; and (g) the material misapplication of the proceeds of any insurance policy or award resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Project or the Property.

11.8 Headings; Construction; Statutory References. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party. All references in this Agreement to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the City of Cathedral City shall be deemed to include the same statute, regulation, ordinance, or

Exhibit A

resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

11.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

11.10 Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Riverside County, California or in the Federal District Court for the Central District of California.

11.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

11.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

11.13 Entire Agreement; Exhibits. This Agreement, together with the DDA and the other City Documents, contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. Exhibits A through C attached hereto are incorporated herein by this reference.

11.14 Survival. Developer's obligations pursuant to Sections 2.1, 2.6, and 10, and all other provisions that expressly so state, shall survive the expiration or termination of this Agreement.

11.15 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE(S).

Exhibit A

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

CITY:

City of Benicia, a California municipal corporation

By: _____

Print Name: _____

Title: City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

DEVELOPER:

Eden Benicia Senior Investors LP, a California limited partnership

By: Eden Benicia Senior LLC, a California limited liability company

Its: General Partner

By: Eden Housing, Inc., a California nonprofit public benefit corporation

Its: sole member/manager

By: _____

Print Name: _____

Title: _____

SIGNATURES MUST BE NOTARIZED.

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.

(Notary Signature)

Exhibit A

ACKNOWLEDGMENT

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)
) ss
County of _____)

On _____, before me, _____,
(Name of Notary)

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.

(Notary Signature)

Exhibit A

Exhibit A

LEGAL DESCRIPTION OF THE PROPERTY

[to be inserted]

Exhibit A

Exhibit B

Number of Units by Unit Size and Targeted Area Median Income (AMI) Levels

	30% AMI	50% AMI	80% AMI	Mgr Unit	Total
Studio	-	-	-	0	-
1-Bedroom	-	-	-	0	-
2-Bedroom	0	0	0	2	-
Total	-	-	-	2	-

Exhibit A

Exhibit C

INSURANCE REQUIREMENTS

Prior to initiating work on the Project and continuing throughout the Term of this Agreement, Developer shall obtain and maintain the following policies of insurance and shall comply with all provisions set forth in this Exhibit.

(a) Commercial General Liability. A commercial general liability policy with coverage limits in the amount of the greater of (i) the amounts required by the senior construction and permanent lenders for the Project, or (ii) One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) annual aggregate, together with Five Million Dollars (\$5,000,000) excess liability coverage, or such other policy limits as City may reasonably require in its discretion, including coverage for bodily injury, property damage, products, completed operations, and contractual liability coverage. The coverage requirements for subcontractors shall be One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) annual aggregate. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

(b) Automobile. Comprehensive automobile liability coverage in the amount of One Million Dollars (\$1,000,000), combined single limit including coverage for owned and non-owned vehicles. Automobile liability policies shall name the Indemnitees as additional insureds.

(c) Workers' Compensation; Employer's Liability. Developer shall furnish or cause to be furnished to City evidence satisfactory to City that Developer and any contractor with whom Developer has contracted for the performance of work on the Property or otherwise pursuant to this Agreement carries Workers' Compensation insurance as required by law and Employer's Liability insurance in a minimum amount of One Million Dollars (\$1,000,000) per accident.

(d) Builder's Risk. Upon commencement of construction and continuing until issuance of a Certificate of Completion, Developer or the general contractor working on behalf of Developer shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as loss payee as its interests may appear.

(e) Professional Liability/Errors and Omissions. Professional Liability/Errors and Omissions insurance as appropriate for design/build operations with limits not less than One Million Dollars (\$1,000,000) each claim. If the professional liability/errors and omissions insurance is written on a claims made basis: (i) the retroactive date must be shown and must be before the Effective Date, (ii) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of Project construction/rehabilitation, and (iii) if coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the Effective Date, Developer must purchase extended period coverage for a minimum of three (3) years after completion of construction/rehabilitation.

(f) Property. Commencing upon the Effective Date, Developer shall maintain property insurance covering all risks of loss, including earthquake (if required) and flood (if required) for

Exhibit A

100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, naming City as loss payee as its interests may appear.

(g) Insurance Providers. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A: VII.

(h) Evidence of Insurance, Endorsements, Policies. Prior to the Effective Date of this Agreement, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage, duly executed endorsements evidencing the Indemnitees' status as additional insured, and all other endorsements and coverage required hereunder. The certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination, or non-renewal. All insurance certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination, or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination, or non-renewal. Upon City's request, Developer shall, within thirty (30) days of the request, provide, or arrange for the insurer to provide to City, complete certified copies of all insurance policies required under this Agreement. City's failure to make such request shall not constitute a waiver of the right to require delivery of the policies in the future.

(i) Additional Insured Endorsements. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 20 10 10 01 and CG 20 37 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Coverage shall be at least as broad as CG 20 10 04 13.

(j) Reinstatement. If any insurance policy or coverage required hereunder is canceled or reduced, Developer shall, within five (5) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Developer's expense, and Developer shall promptly reimburse City for such expense upon receipt of billing from City.

(k) Primary Coverage; Waiver of Subrogation; Annual Aggregate Limits. All coverage shall be primary insurance and shall not be contributing with any insurance, or self-insurance maintained by City, and the policies shall so provide. Each insurance policy shall contain a waiver of subrogation for the benefit of the City. If any of the required insurance is provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs are included in such annual aggregate limit, such annual aggregate limit shall be three (3) times the occurrence limits specified above.

(l) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to reasonable approval by, City's Risk Manager. At the option of and upon request by City's Risk Manager, if the Risk Manager determines that such deductibles or

Exhibit A

retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects the Indemnitees or Developer shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses, or Developer shall provide the City with some other assurance of payment thereof reasonably acceptable to the City.

(m) Adjustments. The limits of the liability coverage and, if necessary, the terms and conditions of insurance, shall be reasonably adjusted from time to time (not less than every five (5) years after the Effective Date nor more than once in every three (3) year period) to address changes in circumstances, including, but not limited to, changes in inflation and the litigation climate in California. Within thirty (30) days following City's delivery of written notice of any such adjustments, Developer shall provide City with amended or new insurance certificates and endorsements evidencing compliance with such adjustments.

(n) Additional Insured Coverage; Liability Limits. For all liability insurance required by this Agreement, Developer (and Developer's contractors, as applicable) shall obtain endorsements that name the Indemnitees as additional insured in the full amount of all applicable policies, notwithstanding any lesser minimum limits specified in this Agreement. This Agreement requires Developer (and Developer's general contractor, as applicable) to obtain and provide for the benefit of the Indemnitees additional insured coverage in the same amount of insurance carried by Developer (or Developer's contractors, as applicable), but in no event less than the minimum amounts specified in this Agreement. In the event that Developer (or Developer's general contractor as applicable) obtains insurance policies that provide liability coverage in excess of the amounts specified in this Agreement, the actual limits provided by such policies shall be deemed to be the amounts required under this Agreement. Without limiting the foregoing, the limits of liability coverage specified in this Agreement are not intended, nor shall they operate, to limit City's ability to recover amounts in excess of the minimum amounts specified in this Agreement.

Exhibit A

Attachment No. 6

Grant Deed

Attachment No. 6

Exhibit A

RECORDING	REQUESTED	BY	)
AND WHEN RECORDED MAIL TO:			)
			)
City of Benicia			)
250 East L Street			)
Benicia, CA 95510			)
Attention: City Clerk			)
			)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

GRANT DEED

For valuable consideration, the receipt of which is hereby acknowledged:

The CITY OF BENICIA, a California municipal corporation (“**City**” or “**Grantor**”), hereby grants to EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Grantee**”), the real property legally described in Exhibit A-1 and Exhibit A-2 attached hereto and incorporated herein by this reference (collectively the “**Site**”).

1. Grantor and Grantee are parties to a Disposition and Development Agreement dated for identification purposes as of _____, 20____ (“**DDA**”). The Site is conveyed subject to all matters of record. The Grantor and Grantee have executed a Memorandum of Disposition and Development Agreement (“**Memorandum of Agreement**”) and an Affordable Housing Covenant each dated concurrently herewith and recorded against the Site. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the DDA.

2. Grantee covenants by and for itself, its executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) 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 premises herein conveyed, nor shall the Grantee or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.

All deeds, leases or contracts made relative to the Site, the improvements thereon or any part thereof shall contain or be subject to substantially the following nondiscrimination clauses:

a. **In deeds:**

(1) “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons

Exhibit A

claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) 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 premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

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

b. In leases:

(1) “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 premises 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 premises herein leased.

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

Exhibit A

citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

- c. **In contracts:** “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 premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises.”

The provisions of this paragraph 2 shall run with the land and shall be contained in each subsequent grant deed conveying title to the Site to any subsequent owner.

3. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted by the DDA, provided, however, that any successor of Grantee to the Site shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor’s title was acquired by foreclosure, deed in lieu of foreclosure, trustee’s sale or otherwise.

4. The covenants against discrimination contained in paragraph 2 of this Grant Deed shall remain in perpetuity.

5. The covenants contained in this Grant Deed shall be binding on Grantee and its heirs, executors, successors and assigns and any successor in interest to the Site or any part thereof, and such covenants shall run in favor of the Grantor and its successors and assigns for the entire period during which such covenants and option shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants or option relate. The Grantor, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

6. In the event of any express conflict between this Grant Deed and the DDA, the provisions of this Grant Deed shall control.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers thereunto duly authorized as of the date noted below.

Exhibit A

GRANTOR:

CITY OF BENICIA, a California municipal corporation

By: _____
Mario Giuliani, City Manager
[Signature must be notarized]

Date: _____, 20____

APPROVED AS TO FORM:

Benjamin Stock, City Attorney

The provisions of this Grant Deed are hereby approved and accepted by Grantee.

Exhibit A

GRANTEE:

**EDEN BENICIA SENIOR
INVESTORS LP**, a California limited
partnership

By: Eden Benicia Senior LLC,
a California limited liability company,
its general partner

By: EDEN HOUSING, INC.,
a California non-profit public benefit
corporation, its sole member/manager

By: _____
Andrea Osgood, Chief of Real
Estate Development and Executive
Vice President

[Signature must be notarized]

Date: _____, 20__

Exhibit A

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the Subdivision Map)

Exhibit A

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.

Exhibit A

Attachment No. 7

Certificate of Completion

Exhibit A

RECORDING	REQUESTED	BY)
AND WHEN RECORDED MAIL TO:		)
		)
City of Benicia		)
250 East L Street		)
Benicia, CA 95510		)
Attention: City Clerk		)
		)

The document is exempt from recording fees per Government Code § 27383 and Building Homes & Jobs Trust Fund Fee per Government Code § 27388.1(a)(2)(D).

CERTIFICATE OF COMPLETION

THIS CERTIFICATE OF COMPLETION (“**Certificate of Completion**”) is made by the CITY OF BENICIA, a California municipal corporation (“**City**”), for the benefit of EDEN BENICIA SENIOR INVESTORS LP, a California limited partnership (“**Developer**”), as of the date set forth below.

RECITALS

A. City and Developer have entered into that certain Disposition and Development (“**DDA**”) dated _____, 20____, a Memorandum of Agreement of which was recorded on _____, 20____, in the Official Records of Solano County as Instrument No. _____, concerning the redevelopment of certain real property (“**Site**”) situated in the City of Benicia, California, as more fully described in Exhibit A-1 and Exhibit A-2 attached hereto and made a part hereof. Pursuant to the DDA, City conveyed fee title to the Site to Developer or on or about _____, 20____.

B. City and Developer are also Parties to an [*Affordable Housing Covenant dated _____, 20____, recorded against the Site in the Official Records of Solano County as Instrument No. _____*] (“**Affordable Housing Covenant**”).

C. As provided in Section 310 of the DDA, City is required to furnish Developer or its successors with a Certificate of Completion upon satisfactory completion of the Project Improvements (as defined in Section 301 of the DDA). This Certificate of Completion is City’s conclusive determination of Developer’s satisfactory completion of the construction and development of the Project Improvements required by the DDA.

NOW, THEREFORE, City hereby certifies as follows:

1. The work of the Project Improvements to be constructed by Developer has been fully and satisfactorily completed in conformance with the DDA.

2. All affordable housing, use, maintenance, nondiscrimination and other covenants contained in the Affordable Housing Covenant shall remain in effect and enforceable according to their terms.

3. This Certificate of Completion shall not be deemed or construed to constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a

Exhibit A

mortgage, or any insurer of a mortgage, securing money loaned to finance the construction and development of the Project Improvements on the Site or portion thereof. This Certificate of Completion is not a notice of completion as referred to in section 3093 of the California Civil Code.

IN WITNESS WHEREOF, City has executed this Certificate of Completion this _____ day of _____, 20____.

CITY OF BENICIA, a California municipal corporation

By:_____

Print Name:_____

Its: City Manager

[notary acknowledgment required]

ATTEST:

City Clerk

Exhibit A

EXHIBIT A-1

LEGAL DESCRIPTION OF SENIOR CENTER CONVEYANCE PARCEL

(to be inserted after recordation of the Subdivision Map)

Exhibit A

EXHIBIT A-2

LEGAL DESCRIPTION OF SCOUT PROPERTY

Lot 4 in Block 55, as shown on the Official Map of the City of Benicia, made by Benjamin W. Barlow and filed in the Office of the County Recorder of Solano County, California, April 21, 1874, in Book 1 of Maps, Page 124.