



**CITY COUNCIL AGENDA
SPECIAL MEETING
CITY OF HALF MOON BAY**

**WEDNESDAY, MARCH 18, 2026
6:00 PM**

**ADCOCK COMMUNITY CENTER
535 KELLY AVENUE
HALF MOON BAY, CA 94019**

**Debbie Ruddock , Mayor
Deborah Penrose, Vice Mayor
Robert Brownstone, Councilmember
Patric Jonsson, Councilmember
Paul Nagengast, Councilmember**

This agenda contains a brief description of each item to be considered. Those wishing to address the City Council on any matter not listed on the agenda, but within the jurisdiction of the City Council to resolve, may come forward to the podium during the Public Forum portion of the agenda and will have a maximum of three minutes to discuss their item. Comments on Consent Calendar items should be made during the Public Forum section of the agenda. Those wishing to speak on a Business or Public Hearing matter will be called forward at the appropriate time during that item's consideration.

Please Note: Anyone wishing to present materials to the City Council, please submit seven copies to the City Clerk.

Copies of written documentation relating to each item of business on the agenda are on file in the Office of the City Clerk at City Hall where they are available for public inspection. If requested, the agenda shall be available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132.) Information may be obtained by calling 650-726-8271.

In compliance with the Americans with Disabilities Act, special assistance for participation in this meeting can be obtained by contacting the City Clerk's Office at 650-726-8271. A 48-hour notification will enable the City to make reasonable accommodations to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).

<http://halfmoonbay.gov>

HYBRID MEETING PUBLIC COMMENT PARTICIPATION PROTOCOLS

*This closed session meeting will take public comment in-person and via Zoom. Remote participation is provided as a supplemental way to provide public comment, but this method does not always work. The public is encouraged to attend in person to ensure full participation. All Councilmembers and staff will participate in person. During any public comment portions, attendees may use the "raise your hand" feature and will be called upon and unmuted when it is their turn to speak. Please click to join the webinar: <https://us06web.zoom.us/j/85007693509> or join by phone at 669-900-9128, using Webinar ID 850 0769 3509. If joining by phone, use *9 to raise your hand, *6 to mute and unmute.*

1. CONVENE SPECIAL MEETING / ROLL CALL

2. STUDY SESSION

2.A 555 KELLY AFFORDABLE HOUSING PROJECT STUDY SESSION

Staff Recommendation: Receive a presentation and provide feedback and direction on the following: 1) Draft Affordable Housing and Property Disposition Agreement between the City of Half Moon Bay and Mercy Housing California 110, L.P.; 2) Draft Ground Lease between the City of Half Moon Bay and Mercy Housing California 110, L.P.; and 3) \$2 million state earmark funding procured in FY 2023 by Senator Josh Becker for the 555 Kelly Farmworker Housing Project, which has not yet been disbursed from the City to Mercy.

[STAFF REPORT](#)

[ATTACHMENT 1](#)

[ATTACHMENT 2](#)

[ATTACHMENT 3](#)

[ATTACHMENT 4](#)

3. STAFF REPORTS

3.A 555 KELLY AVENUE AFFORDABLE HOUSING DEVELOPMENT - AMENDMENT TO EXTEND THE EXCLUSIVE NEGOTIATIONS AGREEMENT BETWEEN THE CITY AND MERCY HOUSING

Staff Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the Second Exclusive Negotiations Agreement (ENA) between the City of Half Moon Bay and Mercy Housing California dated January 30, 2025, by extending the ENA to June 30, 2026, and authorizing the City Manager to further extend the ENA an additional six-months.

[STAFF REPORT](#)

[ATTACHMENT 1](#)

[ATTACHMENT 2](#)

4. ADJOURN SPECIAL MEETING

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **March 18, 2026**

TO: Honorable Mayor and City Council

VIA: Mathew Chidester, City Manager

FROM: Leslie Lacko, Community Development Director
Denise Bazzano, Interim City Attorney

TITLE: 555 KELLY AFFORDABLE HOUSING PROJECT STUDY SESSION

RECOMMENDATION:

Receive a presentation and provide feedback and direction on the following:

- 1) Draft Affordable Housing and Property Disposition Agreement between the City of Half Moon Bay and Mercy Housing California 110, L.P.;
- 2) Draft Ground Lease between the City of Half Moon Bay and Mercy Housing California 110, L.P.; and
- 3) \$2 million state earmark funding procured in FY 2023 by Senator Josh Becker for the 555 Kelly Farmworker Housing Project, which has not yet been disbursed from the City to Mercy.

FISCAL IMPACT:

There is no fiscal impact to the General Fund associated with this study session. The City previously committed \$1 million through a Predevelopment Loan Agreement with Mercy Housing from the City's Affordable Housing Fund, which was allowed to expire due to the City's receipt of \$2 million in state funding for the Project. The City received additional predevelopment funding from the County in the amount of \$1.5 million for the Project, which has supported much of the design and entitlement work to date through a separate agreement with Mercy. Mercy will acquire and administer any additional funding necessary to complete the Project.

STRATEGIC ELEMENTS:

This action supports the *Healthy Communities and Public Safety* and *Inclusive Governance* Elements of the Strategic Plan.

BACKGROUND:

555 Kelly Avenue is a 6,200 square foot parcel, acquired by the City in September 2017. In February 2022, the City issued a Request for Proposals (RFQ) to solicit affordable housing development interest for the site, which was identified by the City Council in November 2021 as

a priority opportunity site. The City received only one submittal from a two-agency team comprised of Mercy Housing and Ayudando Latinos A Soñar (ALAS). The City accepted the proposal and in October 2022, and declared the land as “exempt surplus” in compliance with the Surplus Lands Act. The City also entered into an Exclusive Negotiations Agreement with Mercy to enable predevelopment activities for the proposed affordable housing and provide time in which to negotiate a ground lease and a disposition agreement between the parties. Subsequently, the City and Mercy entered into agreements related to funding from the City and the County, to financially support the predevelopment activities, which included conceptual design, community outreach, design development, public meetings, permitting, and the development agreement.

On May 14, 2024, following several public hearings, the Planning Commission conditionally approved a Coastal Development Permit (CDP) for the Project ([PDP-23-034](#)). The Planning Commission found that the Project, as modified by the conditions, was in conformance with the Local Coastal Program with the exception of density, height, and parking requirements, which were waived by State Density Bonus Law¹. Following the Planning Commission’s action, three separate appeals to City Council were filed, challenging the Planning Commission’s decision to approve the CDP. On June 26, 2024, the City Council held a hearing and voted to deny the appeals, upholding the Planning Commission’s decision.

The CDP authorized the following: a new five-story building with forty (40) residential units for senior or retired (age 55 plus) farmworkers that are deed restricted affordable to extremely low and very low-income households; a lot line adjustment to reconfigure the driveway at Kelly Avenue and enlarge the development parcel by utilizing the existing parking lot for the adjacent Ted Adcock Community Center; on-site property management and resident-serving facilities; an 18-space ground-floor parking garage for residents; and additional off street parking adjacent to the Community Center. The full [Project plan set](#), details the approved site layout, architectural elevations, building renderings, material and color details, design inspiration, concept landscape and planting plans, grading and civil sheets, and exhibits illustrating the proposed lot line adjustment. Additional information is available on the [City’s Project page](#). Mercy Housing also has a dedicated project website that includes an overview of development highlights, community outreach, and Project renderings at www.555kelly.org.

The Project is currently estimated to cost a total of \$43,941,316. Funds currently committed to the development consist of over \$21 million from federal, state, and county sources, some of which are administered by the City. No City General Funds are currently committed to the Project, and the financing plan (Attachment 3) does not include funding from Half Moon Bay. In fall 2025, the California Housing and Community Development Department (HCD) announced a

¹ The waivers were available under State Density Bonus Law for the 100% affordable project based on a finding of proximity to a “major transit stop.” On December 16, 2024, the City Council adopted Resolution 2024-97, which recited AB 2553 (effective January 1, 2025), and resolved that, consistent with state statutory definitions, the City will no longer use on-demand transit to qualify a location as a major transit stop, unless directed otherwise by state law.

commitment of \$13,350,000 in Serna Farmworker Grant funds for the Project. The updated Estimated Costs and Financing Plan are included as Attachment 3.

For development to move forward, the City and Mercy need to enter into an Affordable Housing and Property Disposition Agreement (AHPDA) and ground lease (Lease) authorizing Mercy's long-term use of the City-owned land on which the building would be constructed. Following the Council's decision to uphold the Planning Commission's approval in June 2024, the Council designated an Ad-Hoc Committee to work with Mercy on outstanding issues related to the proposed lease and disposition agreements. The Committee met on multiple occasions from October 2024 through October 2025 to discuss the primary outstanding issues and reported back to the full City Council in both closed sessions and public meeting. In October 2025, the City Council held a study session to review and discuss the terms and issues identified during the entitlement process and Ad-Hoc committee meetings.

At that meeting, many of the deal points that would be negotiated into the AHPDA and Lease were presented as well as details of discussions between the City and Mercy through the Ad Hoc process. These deal points included: affordability requirements, eligibility requirements for occupancy of the units, local preferences for potential residents, age restrictions, rules for changes in tenancy, occupancy limits, the unit mix (studios, 1 and 2 bedrooms; numbers of each), building height, the proposed community resource center and community spaces, Mercy's property management office spaces, parking resources and limitations, and the Lease rent and terms. Details on discussions around each of those areas were spelled out in the [October 16, 2025 Staff Report](#).

At the October 2025 meeting, questions were raised regarding ongoing work to address parking, traffic, and pedestrian safety concerns related to the Project's location in the already busy Kelly Avenue commercial district. Questions were also raised about the current funding plan for the Project and long-term feasibility, concerns about the current political and economic landscape and how they might impact the Project, and the proposed lease payment of \$1 per year. Proponents continued to encourage moving the Project forward and quickly, citing the continuing need for more affordable housing in the community, especially for the targeted population of senior and retired farmworkers.

Ultimately, the Council directed Staff to continue to work with Mercy on the deal points, and to return at a future meeting with drafts of the AHPDA and Lease so that Council and the community could review the proposed points in the context of the legal agreements. Staff and Mercy have developed a draft Affordable Housing and Property Disposition Agreement (AHPDA – included as Attachment 1) and Draft Ground Lease (Lease – included as Attachment 2). The draft deal points and documents do not represent or imply agreement between the City and Mercy, but articulate Mercy's approach to meeting the needs and expectations of the City and community, while delivering a viable Project within the scope of the approved CDP.

DISCUSSION:

During the planning for the Project and throughout the Planning Commission and City Council hearings, as well as the October 16, 2025 meeting, many concerns were brought forward by members of the community, the Planning Commission, and the City Council. These concerns included parking constraints, traffic impacts, bicycle and pedestrian safety, building design, height and density, occupancy limits, Project costs and financing, consistency with the Local Coastal Program, use of and community access to the ground floor space, ADA accessibility, uncertainty in the current federal and international political climate, and others.

Many of these concerns were addressed in the [staff report for October 16, 2025](#), and further addressed during the meeting. Additional questions were raised, many of which were also addressed in the meeting. Other questions required additional research and planning, and are addressed below with further updates at the meeting.

Lease Term and Rent

The 555 Kelly development site is owned by the City, and concerns and questions have been raised about the proposed low-cost lease being considered by the City to Mercy. The Exclusive Negotiating Agreement (ENA) executed by the City and Mercy Housing in April 2025 (and being discussed on another item at the March 18, meeting) incorporates a proposed minimum lease term of 65 years with an option to extend to 99 years, and a rent of \$1 per year. These terms enabled the Project to successfully compete for \$13,350,000 of Serna Farmworker funds that were recently awarded by the California Housing and Community Development Department (HCD). During the drafting process, Mercy indicated a desire to specify a term of 99 years, rather than 65 years, and thus the Lease reflects that length of term.

An affordable long term ground lease from a city to the affordable housing developer/owner is a typical means for a city to facilitate the development of affordable housing while maintaining ownership of the land. This approach is also a way in which a city can invest in the production of required affordable housing without needing to provide city funding directly to the development. In the case of this Project, there are no City funds in the financing plan. Government Code section 37364 and state policy support the City's leasing or other disposition of City land at less than fair market value and deed restricting the use of the land to affordable housing given the high priority to produce affordable housing in the state.

Traffic, Bike, and Pedestrian Safety

Throughout the process concerns have been raised about traffic in the area related to the Project, as well as the safety of bicyclists and pedestrians. The Project is located in the busy Kelly Avenue commercial district, with proximity to Highway 1, Cunha Intermediate School/BGCC event center, Our Lady of the Pillar Catholic Church, and Shoreline Station office park - which includes many businesses, the Coastside Clinic, and City facilities. Council has indicated a desire to better understand the issues in the area and proactively address the issues to make the area safer for everyone. Over the past few years, the City has pursued and secured funding for

several studies that are exploring traffic and road safety issues and improvements, several of which include the area surrounding the Project.

- Half Moon Bay South Highway 1 Corridor Study – primarily funded by a grant from the San Mateo County Transit Authority - aims to identify ways to improve highway traffic efficiency and pedestrian and bicycle safety along Highway 1 from Miramontes Point Rd to Hwy 92. The study is investigating current traffic and travel patterns, identifying bottlenecks, and evaluating potential solutions to improve traffic flow and safe access for bicyclists and pedestrians. The project is investigating all highway crossings, with particular emphasis on the East/West connections at key intersections, including Highway 1 and Kelly Avenue.
- Safe Streets for All Road Safety Action Plan – primarily funded by a Safe Streets for All (SS4A) grant - is a planning effort designed to analyze traffic safety issues across the city and develop a comprehensive strategy to reduce crashes, injuries, and fatalities on local roads. The project’s main objective is to create a data-driven Road Safety Action Plan that identifies where crashes occur and outlines the policies, infrastructure improvements, and programs needed to make streets safer for all users. Key goals include improving safety for all roadway users, including pedestrians, cyclists, transit riders, and drivers, and positioning the City to be competitive for future federal safety grants to fund construction projects.
- The Caltrans State Route 1 Multi-Asset Roadway Rehabilitation Project (SHOPP) is currently under construction and includes a series of maintenance, safety, and “complete streets” upgrades along Highway 1 through much of the Coastside, including Half Moon Bay. Specifically, the project includes: resurfacing and rehabilitation of the existing roadway to restore pavement condition and extend the life of the Highway; replacement of drainage inlets, culverts, and ditches to improve stormwater flow and prevent roadway flooding; installation and reconstruction of curb ramps, sidewalks, and pedestrian crossings to meet Americans with Disabilities Act (ADA) standards; addition or improvement of bike lanes and pedestrian facilities consistent with Caltrans’ “Complete Streets” policy; replacement and modernization of signal poles, electrical systems, and traffic-monitoring infrastructure, including cameras and traffic sensors. Although the SHOPP project will not address serious concerns by the City regarding the current configuration of the Highway 1 and Kelly Avenue intersection, it will make some improvements to pedestrian and bicycle safety in the area, allowing safer travel across the Highway and to services and amenities in the community. The City is exploring opportunities to make additional improvements at the key intersection, that could drastically improve pedestrian safety.

The goal of all of these projects is to identify and improve traffic, bicycle, and pedestrian safety in Half Moon Bay, and these projects specifically target the area surrounding the Project site, due to the many other facilities and users in the area.

Parking Management

Questions continue about the available parking for residents of the area as well as existing surrounding uses. At the October meeting, it was indicated that surrounding property owners were open to arrangements to expand parking in the area, to ensure adequate parking would be available at all times and in most circumstances. Mercy has initiated conversations with several adjacent property owners, with limited success. They are prepared to share potential additional parking options, based on those conversations.

The City has analyzed the current availability of public and street parking on the site and in the downtown, maps of which are included as Attachment 4. The maps indicate nearly a thousand public parking spaces currently within a quarter-mile walk of the Project, which although not ideal could help alleviate some of the concerns about parking beyond the Project site itself. The Council will also be discussing downtown parking challenges and options at an upcoming Council Meeting, to develop solutions to growing parking demands.

As far as parking that would be committed to the Project, the Project garage would include parking spaces for 18 autos (including two ADA spaces) and 32 bicycles. Additionally, Mercy has secured California Infill and Infrastructure Grant (IIG) funds to reconfigure the drive lane and layout of the Ted Adcock Community Center parking lot, with the end result that the number of public parking spaces will remain at 28, the same number as exists today. The CDP Conditions of Approval for the Project allow for after-hours and overnight parking by building residents at the TACC parking lot under a shared use agreement.

Additional dedicated spaces for daily or overnight parking for the Project are continuing to be explored, and Mercy is prepared to shared updates at the meeting.

State Budget Earmark

Senator Josh Becker secured \$2 million in the 2023-24 California State Budget for the City to support the development of farmworker housing, specifically the 555 Kelly project. The City received the funds and deposited them into our Affordable Housing Fund (Fund 126) to be held until needed for the 555 Kelly project. At the time, Mercy was utilizing the \$1.5 million ARPA funding received by the City from the County for the project, pursuant to a funding agreement which ended in late 2025. Previously, the City had committed, through a predevelopment loan agreement, to use \$1 million from the City's affordable housing fund, to support the Project. That agreement expired without Mercy drawing on any of the funds, and no City funds are currently committed to the Project. At this time, Mercy continues to incur costs related to the project, and seeks an agreement with the City to allow a draw on the funds received from the State for this project. Staff recommends developing an agreement similar to the previously approved predevelopment agreement, which would allow Mercy to obtain reimbursements from the City for actual costs incurred in relation to the Project, not to exceed \$2 million. Staff plans to work with Mercy on preparing the documentation for approval by the Council at a future meeting, and seeks direction from Council before moving forward.

CONCLUSION/NEXT STEPS:

Since the October 2025 Council meeting, City Staff have worked with Mercy Housing to ensure many of the issues raised throughout the design and entitlement process and previous meetings have been addressed in the draft AHPDA and Lease, within the constraints of the site size, layout and location, construction and operational costs, and potential resident needs. In order for the Project to move forward, the City Council will ultimately need to reach consensus on the terms and conditions in the agreements, which would ideally be brought back to the Council in the near future for consideration. Should Council reach some level of consensus and direct staff accordingly, the two draft documents would be updated to reflect that direction before a vote would be taken at a public meeting.

ATTACHMENTS:

1. Draft AHPDA
2. Draft Lease Agreement
3. Estimated Costs and Financing Plan
4. Parking Diagrams and Maps

AFFORDABLE HOUSING AND PROPERTY DISPOSITION AGREEMENT

By and Between

CITY OF HALF MOON BAY

and

MERCY HOUSING CALIFORNIA 110, L.P.

Dated as of _____, 2026

AFFORDABLE HOUSING AND PROPERTY DISPOSITION AGREEMENT

THIS AFFORDABLE HOUSING AND PROPERTY DISPOSITION AGREEMENT (“**Agreement**”) is made and entered into as of _____, 2026 (“**Effective Date**”), by and between CITY OF HALF MOON BAY, a municipal corporation (“**City**”), and MERCY HOUSING CALIFORNIA 110, L.P., a California limited partnership (“**Developer**”). City and Developer are sometimes referred to hereinafter individually as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. City owns fee title to that unimproved certain real property located at 535 and 555 Kelly Avenue, in Half Moon Bay, California (APNs: 056-150-220 (partial) and 056-150-200) (“**Property**”).

B. On February 25, 2022, City issued a Request for Qualifications (“**RFQ**”) to select a developer to develop an affordable housing development, consistent with the general goals and requirements contained in the RFQ, on the Property.

C. Through the RFQ process, Mercy Housing California, a California nonprofit public benefit corporation (“**Mercy**”), was selected to potentially develop, pending subsequent negotiations, the proposed development on the Property. Mercy was established to develop and operate safe, decent affordable housing in California.

D. Developer is a California limited partnership, the general partner of which is Mercy Housing California 110 LLC, a California limited liability company, of which Mercy Housing California, a California nonprofit public benefit corporation, is its sole member/manager.

E. On May 14, 2024, the City’s Planning Commission conditionally approved a Coastal Development Permit (CDP) for the Project (PDP-23-034). Following the Planning Commission action, three separate appeals to City Council were filed, challenging the Planning Commission decision to approve the CDP. On June 26, 2024, the City Council held a hearing and voted to deny the appeals, upholding the CDP.

F. The Parties now desire to enter into this Agreement to set forth the terms and conditions on which City will ground lease the Property to Developer for Developer to: (i) construct and operate a forty (40) unit senior farmworker multifamily apartment project with all but one (1) of such units restricted for occupancy by extremely low and very low income households, as further described in Section 8.1 of the form of Ground Lease attached to this Agreement as Attachment No. 6, (ii) construct and operate, or provide for the operation of, residential common space and property management office space, (iii) construct and provide for the operation of an approximately 2,600 square feet community-serving space, and (iv) provide parking spaces for 18 on-site parking spaces (including two (2) ADA spaces) and 18 off-site parking spaces to replace the spaces lost at the Ted Adcock Community Center and thirty-two (32) bicycle parking spaces

(collectively, “**Project**”). The Property consists of approximately 16,395 square feet, and is more particularly described in Attachment No. 1 to this Agreement.

G. The ground lease of the Property to Developer and the development and subsequent operation of the Project on the Property pursuant to this Agreement, and the fulfillment generally of this Agreement, are in furtherance of City’s goals to provide permanent affordable housing in the City of Half Moon Bay, are in the vital and best interests of the City of Half Moon Bay and the welfare of its residents, and are in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements under which the Project has been undertaken.

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which are incorporated herein by this reference, and the mutual promises, covenants, and conditions herein contained, City and Developer hereto agree as follows:

1. DEFINITIONS

As used in this Agreement, capitalized terms are defined where first used or as set forth in this Section 1. Capitalized terms used in an attachment attached hereto and not defined therein shall also have the meanings set forth in this Section 1.

“**Adjusted AMI**” has the meaning given to it in Section 11.

“**Affiliate**” means any Person, directly or indirectly, Controlling or Controlled by or under common Control with such Person, whether by direct or indirect ownership of equity interests, by contract or otherwise, where “**Person**” means any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind, “**Control**” means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by ownership of equity interests, by contract or otherwise, and “**Controlling**” and “**Controlled**” means exercising or having Control.

“**Building Permit**” means all permits issued by City and required for commencement of construction of the Project.

“**California Prevailing Wage Law**” has the definition given it in Section 10.9(i).

“**Cash Flow Projection**” means a financial forecast estimating future cash inflows and outflows over the term of the Ground Lease.

“**CDLAC**” means the California Debt Limit Allocation Committee.

“**City**” means the City of Half Moon Bay, California.

“**City Title Policy**” has the meaning set forth in Section 7.2(j) of this Agreement.

“Construction Lender” means the lender that provides construction financing for the Project. If the Project is financed through issuance of the Tax-Exempt Bonds, then Construction Lender shall be understood to mean the institution or institutions that hold such Tax-Exempt Bonds through the construction period (e.g., until the Conversion Date). The Construction Lender may or may not also be the Take-Out Lender.

“Construction Loan” means the construction loan for the Project secured by the Construction Loan Security Documents, in the amount set forth in the Final Project Budget. If the Project is financed through issuance of the Tax-Exempt Bonds, then Construction Loan shall be understood to mean the proceeds of such Tax-Exempt Bonds.

“Construction Loan Security Documents” means the documents and instruments required by the Construction Lender to secure the Construction Loan.

“Conversion Date” has the meaning set forth in the Construction Loan Security Documents, or, if such term is not defined therein, means the date the Construction Loan converts from a construction loan to a permanent loan.

“Developer” has the meaning set forth in the opening paragraph of this Agreement.

“Developer Title Policy” has the meaning set forth in Section 7.3(e) of this Agreement.

“Director” means the person duly appointed to the position of Director of the Community Development Department, or his or her designee. The Director shall represent City in all matters pertaining to this Agreement. Whenever a reference is made herein to an action or approval to be undertaken by City, the Director is authorized to act unless this Agreement specifically provides otherwise or the context should otherwise require.

“Environmental Inquiries” has the meaning given to it in Section 5.6.

“Escrow” means the escrow through which the Property Closing is conducted.

“Escrow Holder” means Old Republic Title Company, with its offices located at Old Republic Title - 555 12th St. Ste. 2000, Oakland, CA. 94607 or such other escrow company as may be agreed to by Developer and the Director.

“Event of Default” has the meaning set forth in Section 13.1 of this Agreement.

“Final Construction Documents” means the final plans, drawings and specifications upon which the Building Permit is issued.

“Final Project Budget” shall mean the final budget for the Project, as more fully discussed in Section 6.3 below.

“First Year Operating Budget” means a detailed financial plan projecting the Project’s expected revenues and expenses for its first year of operation.

“Governmental Requirements” means all laws, ordinances, statutes, codes, rules, regulations, requirements, orders and decrees, of the United States, the State of California, the City of Half Moon Bay, the County of San Mateo, and of any other political subdivision, agency or instrumentality exercising jurisdiction over City, Developer, the Property, and/or the Project, including common law.

“Ground Lease” means a ground lease substantially in the form attached hereto and incorporated herein as Attachment No. 6, to be executed by Developer and City to set forth the terms and conditions for City’s lease of the Property to Developer.

“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, but not limited to, any material or substance which is (i) defined as a “hazardous waste”, “acutely hazardous waste”, “extremely hazardous waste”, or “restricted hazardous waste” under Section 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) 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 Code of Regulations, Chapter 20, (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903), (xi) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., (xii) methyl-tertiary butyl ether, (xiii) perchlorate or (xiv) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any governmental requirements either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as “hazardous” or harmful to the environment. For purposes hereof, “Hazardous Materials” excludes materials and substances in quantities as are commonly used in the construction and operation of an apartment complex, provided that such materials and substances are used in accordance with all applicable laws.

“Hazardous Materials Contamination” means the contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Property by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on,

in or of any other property as a result of Hazardous Materials at any time emanating from the Property.

“Indemnitees” means City, and its respective directors, officers, officials, members, employees, representatives, agents and volunteers.

“Investor” means the low income housing tax credit limited partner of the Developer.

“Land Use Entitlements” has the meaning set forth in Section 4 of this Agreement.

“Liabilities” has the meaning set forth in Section 5.3 of this Agreement.

“Management Agreement” has the meaning set forth in Section 7.2(h) of this Agreement.

“Memorandum of Ground Lease” means the Memorandum of Unrecorded Ground Lease to record in the Official Records pursuant to Section 1.4 of the Ground Lease.

“Mercy” has the meaning set forth in Recital C.

“Notices” has the meaning set forth in Section 14 of this Agreement.

“Official Records” means the Official Records of the County of San Mateo.

“Outside Closing Date” means the date that is one hundred ninety-four (194) days after the first date on which Developer has received an allocation of Tax Credits from TCAC, provided, however, that such date may be extended to the extent the required closing date is extended by CDLAC and/or TCAC.

“Partnership Agreement” means the limited partnership agreement for Developer.

“Preliminary Project Budget” shall mean that certain preliminary project budget attached hereto and incorporated herein as Attachment No. 5.

“Preliminary Title Report” has the meaning given it in Section 5.8.

“Project” has the meaning set forth in Recital F, above, all in accordance with this Agreement, including, without limitation, the Scope of Development, the Land Use Entitlements, and the Final Construction Documents.

“Project Costs” means all costs of any nature incurred in connection with the planning, design, and development of the Project.

“Project Documents” means, collectively, this Agreement, the Ground Lease, the Memorandum of Ground Lease, and any other agreement, document or instrument that

Developer and City enter into pursuant to this Agreement or in order to effectuate the purposes of this Agreement.

“Property” means that certain real property referred to in Recital A and legally described in Attachment No. 1 and depicted in Attachment No. 2, both of which attachments are attached hereto and incorporated herein by this reference. The Property comprises approximately 16,395 square feet of land.

“Project Financing” has the meaning set forth in Section 6.1 of this Agreement.

“Property Closing” means closing of the construction sources of Project Financing, execution of the Ground Lease and delivery of possession of the Property to Developer pursuant thereto.

“Regulatory Agreement” is defined in Section 7.3(i).

“Response Action” is defined in Section 5.5 of this Agreement.

“RFQ” has the meaning give it in Recital A.

“Schedule of Performance” means the Schedule of Performance attached hereto and incorporated herein as Attachment No. 3.

“Scope of Development” means the Scope of Development attached hereto and incorporated herein as Attachment No. 4.

“Site Map” means the site map attached hereto and incorporated herein as Attachment No. 2.

“Sources and Uses of Funds Statement” means a statement attached to each of the Preliminary Project Budget and Final Project Budget detailing the sources of capital for the Project and uses for which those funds will be spent.

“Take-Out Lender” means the lending institution that makes the Take-Out Loan. If the Project is financed through issuance of Tax-Exempt Bonds, then Take-Out Lender shall be understood to mean the institution that holds or institutions that hold such Tax-Exempt Bonds from and after the construction period (e.g., from and after the Conversion Date). The Take-Out Lender may or may not also be the Construction Lender.

“Take-Out Loan” means the long-term loan made by the Take-Out Lender to Developer to take out the Construction Loan. If the Project is financed through issuance of Tax-Exempt Bonds, then Take-Out Loan shall be understood to mean the proceeds of such Tax-Exempt Bonds.

“Tax Credits” has the meaning set forth in Section 6.1(b) of this Agreement.

“Tax Credit Program” means the low-income housing tax credit program authorized pursuant to Internal Revenue Code Section 42, California Health and Safety

Code Sections 50199.6-50199.19, Revenue and Taxation Code Sections 17057.5, 17058, 23610.4, 23610.5, and applicable federal and State regulations such as 4 California Code of Regulations Sections 10300-10340.

“**Tax-Exempt Bonds**” means tax-exempt multifamily housing mortgage revenue bonds.

“**TCAC**” means the California Tax Credit Allocation Committee.

“**TCO**” has the meaning given to it in Section 10.5.

“**Title Company**” means Old Republic Title Company, with its offices located at Old Republic Title - 555 12th St. Ste. 2000, Oakland, CA. 94607, or such other title insurance company as may be agreed to by Developer and the Director.

“**Title Exceptions**” has the meaning given to it in Section 5.8.

2. DEVELOPER

Developer is a California limited partnership, the general partner of which is Mercy Housing California 110, LLC, a California limited liability company, of which Mercy is its sole member/manager.

3. SCHEDULE OF PERFORMANCE

The Schedule of Performance sets forth the times by which the parties are required to perform certain obligations set forth in this Agreement.

4. LAND USE ENTITLEMENTS

Developer and City acknowledge and agree that prior to the Effective Date, Developer obtained all discretionary governmental permits and approvals necessary to allow Developer to develop the Project in the manner required by this Agreement (collectively, “**Land Use Entitlements**”), and that Developer has accepted all of the Land Use Entitlements, including all of the terms and conditions pertaining thereto.

5. RIGHT TO ENTER PROPERTY; AS-IS; PHYSICAL AND ENVIRONMENTAL CONDITION

5.1 Right to Enter Property. Developer acknowledges and agrees that Developer has had ample opportunity to examine, inspect, and investigate the physical and environmental condition of the Property, and has approved the physical and environmental condition of the Property and determined it is acceptable to Developer and suitable for Developer’s intended use. Commencing as of the Effective Date and until the Property Closing, Developer and Developer’s representatives and agents shall be entitled to enter onto the Property to conduct additional examinations and investigations as provided herein. For avoidance of doubt, such additional examinations and investigations shall not affect Developer’s approval of the physical and environmental condition of the

Property or Developer's determination that the Property is suitable for Developer's intended use.

Developer shall provide to City a copy of all reports, studies and test results prepared by Developer's consultants as a result of such additional examinations and/or investigations, without representation or warranty. Developer shall submit a written request to and receive the approval of City prior to any proposed entry by Developer or Developer's representatives on the Property. City shall reasonably consider any such request and shall endeavor to provide a response to Developer within one (1) business day. Any such entry shall occur during normal business hours. City shall have the right, but not the obligation, to accompany Developer during any such additional examinations and/or investigations. As a condition of such entry, Developer shall (i) conduct all additional examinations and/or investigations in a diligent, expeditious, and safe manner and not allow any dangerous or hazardous conditions to occur on the Property during or after the additional examinations and/or investigations; (ii) obtain any required governmental permits and comply with all applicable laws and governmental regulations; (iii) keep the Property free and clear of all materialmen's liens, lis pendens and other liens arising out of the entry and additional examinations and/or investigations under this paragraph; (iv) maintain or assure maintenance of workers' compensation insurance (or state approved self-insurance) for all persons entering the Property in the amounts required by the State of California; and (v) provide to City prior to initial entry a certificate of insurance evidencing that Developer and/or the persons entering the Property have procured and have in effect commercial general liability insurance that satisfies the requirements set forth in Section 10.5 hereof. Developer shall, in a timely manner, repair any and all damage to the Property caused by such additional examinations and/or investigations, and shall indemnify, defend, and hold harmless the Indemnitees from and against any claims, liabilities, and losses arising from the entry of Developer or its representatives or agents on the Property pursuant to this Section 5.1, except to the extent that such claims liabilities and losses arise out of the intentional misconduct or gross negligence of any of the Indemnitees.

5.2 AS-IS; Release. Developer acknowledges and agrees that Developer is leasing the Property from City solely in reliance on its own investigation, and that no representations and/or warranties of any kind whatsoever, express or implied, have been made by any of the Indemnitees.

AS A MATERIAL PART OF THE CONSIDERATION FOR CITY'S AGREEMENT TO LEASE THE PROPERTY TO DEVELOPER, DEVELOPER AGREES TO ACCEPT THE PROPERTY "AS IS" AND "WHERE IS", WITH ALL FAULTS. SUBJECT TO APPLICABLE CALIFORNIA LAW, NO WARRANTY OR REPRESENTATION IS MADE BY INDEMNITEES WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO (I) FITNESS FOR ANY PARTICULAR PURPOSE, (II) MERCHANTABILITY, (III) CONDITION, (IV) ABSENCE OF DEFECTS OR FAULTS, (V) ABSENCE OF HAZARDOUS OR TOXIC SUBSTANCES, (VI) FLOODING, OR (VII) COMPLIANCE WITH LAWS AND REGULATIONS, INCLUDING, WITHOUT LIMITATION, LAWS AND REGULATIONS RELATING TO HEALTH, SAFETY, AND THE ENVIRONMENT, AS THEY MAY APPLY

TO THE CURRENT CONDITION OF THE PROPERTY OR DEVELOPER'S INTENDED DEVELOPMENT, CONSTRUCTION OR USE, OR FOR ANY OTHER PURPOSE. DEVELOPER ACKNOWLEDGES THAT DEVELOPER WILL BE RELYING UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC USE, TITLE, COMPLIANCE AND LEGAL CONDITION OF THE PROPERTY.

On and after the Property Closing, Developer will be deemed to have waived and released Indemnitees of and from any and all claims, causes of action, damages or losses that may be incurred by Developer concerning the condition of the Property, whether known or unknown as of the Effective Date. Such waiver will be deemed to be a release of all rights held by Developer under California Civil Code §1542, which states:

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.

Developer Initials _____

This Section 5.2 shall survive termination of the Agreement.

5.3 Developer Indemnity. Developer shall save, protect, defend (with counsel acceptable to City), indemnify, and hold harmless the Indemnitees from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation and laboratory fees, reasonable attorneys' fees and remedial and response costs) (collectively, "**Liabilities**") which may now or in the future be incurred or suffered by any of the Indemnitees by reason of, resulting from, in connection with, or existing in any manner whatsoever as a direct or indirect result of (i) Developer's failure to comply with all applicable Governmental Requirements; (ii) Developer's placement on, under or about the Property of any Hazardous Materials or Hazardous Materials Contamination; or (iii) Developer's breach of its obligations under this Article 5. Except for obligations assumed by Developer in this Article 5, Developer shall have no indemnity obligation to any of the Indemnitees for any Liabilities arising from or related to Hazardous Materials Contamination of the Property that existed prior to the Property Closing, except to the extent such contamination is exacerbated by Developer or any of its Affiliates, agents, contractors, consultants or employees.

5.4 Duty to Prevent Hazardous Materials Contamination. Developer shall take commercially reasonable actions to prevent the exacerbation of an existing release of any Hazardous Materials located on the Property and the release of new Hazardous Materials to the Property after the Property Closing. For the avoidance of ambiguity, nothing in the previous sentence shall limit Developer from maintaining Hazardous Materials existing on the Property prior to the Property Closing or consolidating such Hazardous Materials

on the Property, all to the extent such actions will not exacerbate any existing release of such Hazardous Materials and are permitted by law. Developer's duty to prevent Hazardous Materials Contamination shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Developer shall comply with any state or local Government Requirements pertaining to apartment complexes in San Mateo County, California, as respects the disclosure, permitting, notification, storage, use, removal, and disposal of Hazardous Materials.

5.5 Obligation to Remediate Premises. Developer acknowledges that, as of the Property Closing, City shall have no obligation to undertake any action to address or respond to Hazardous Materials present on, under, or about the Property regardless of when the Hazardous Materials first occurred or when they were first discovered. After the Property Closing, any remediation, investigation, mitigation or other response action (collectively "**Response Action**") shall be performed by Developer at Developer's sole cost and expense without any reimbursement from City, including without limitation (i) all Response Actions required by any federal, state, regional, or local governmental agency or political subdivision or to fulfill any Governmental Requirements and (ii) all actions necessary to use the Property for the purposes contemplated by the Regulatory Agreement, this Agreement, and the Ground Lease. Developer shall bear sole responsibility, cost and expense for any Response Action regardless of whether the Hazardous Materials or Hazardous Materials Contamination that is the subject of such Response Action arose before or after the Property Closing and regardless of when it was first discovered. Such Response Actions shall include, but not be limited to, the investigation of the environmental condition of the Property, the preparation of any feasibility studies, risk assessments or other reports, and the performance of any cleanup, remedial, removal, mitigation or restoration work.

5.6 Environmental Inquiries. Developer, when it has received any notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, or cease and desist orders related to Hazardous Materials or Hazardous Materials Contamination from any governmental agency, or when Developer is required by any regulatory authority to report any violation or potential violation of any Governmental Requirement pertaining to Hazardous Materials or Hazardous Materials Contamination (collectively, "**Environmental Inquiries**"), shall promptly provide the Director a copy or copies of the Environmental Inquiries received or reported.

In the event of a release of any Hazardous Materials into the environment in violation of law, Developer shall, as soon as possible after it becomes aware of the release, furnish to the Director a notification that the release occurred and a copy of any and all test results and final reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request of the Director, Developer shall furnish to the Director a copy or copies of any and all other Environmental Inquires relating to or affecting the Property including, but not limited to, all environmental permit applications for permits, test results and final environmental reports, including, without limitation, those reports and other matters which may be characterized by Developer as confidential. For the avoidance of ambiguity, Developer shall be under no obligation to

furnish any attorney-client privileged documents; provided, however, that Developer may not withhold from City facts regarding a violation of law that affects the Property.

5.7 Materiality. Developer acknowledges and agrees that the defense, indemnification, protection and hold harmless obligations of Developer for the benefit of Indemnitees set forth in this Agreement are a material element of the consideration to City under this Agreement, and that City would not have entered into this Agreement unless Developer's obligations were as provided for herein.

5.8 Review of Title of Site. Developer acknowledges and agrees that City provided Developer preliminary title reports prepared by the Title Company on November 10, 2025, as its Order Nos. 111703064 and 1117030644 ("**Preliminary Title Report**") with respect to the title to the Property, together with legible copies of the documents underlying the exceptions ("**Title Exceptions**") set forth in the Preliminary Title Report, and that Developer, through its Affiliate, Mercy, has had ample opportunity to review the Preliminary Title Report and Title Exceptions, and has approved the Preliminary Title Report and Title Exceptions and determined the condition of title to the Property ("**Condition of Property Title**") is acceptable to Developer and suitable for Developer's intended use. From and after the date of the approved Preliminary Title Report, and continuing until the earlier of (i) the Property Closing, or (ii) termination of this Agreement, City shall not further encumber the Property with additional Title Exceptions without Developer's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

6. FINANCING PLAN FOR THE PROJECT

6.1 Financing Plan. As of the date of this Agreement, it is contemplated that Developer will finance the Project ("**Project Financing**") through a combination of funds from the proceeds of the following:

- (a) Construction Loan. The Construction Loan;
- (b) Tax Credits. Developer equity, consisting of equity raised by the syndication to reputable investors of state and/or federal low-income housing credit and obtained pursuant to 26 U.S.C. §42 ("**Tax Credits**");
- (c) Take-Out Loan. The Take-Out Loan;
- (d) IIG Grant. A grant of Infill Infrastructure Grant funds from the California Department of Housing and Community Development in the amount of \$2,756,304;
- (e) State Funds. \$2,000,000 in funds from the State of California, to be provided as either a grant or loan;
- (f) APRA Grant. A grant of funds from the County of San Mateo to the City of Half Moon Bay to provide American Rescue Plan Act (ARPA) funds to Developer, in an amount to be set forth in the Final Project Budget; and

(g) Serna Loan. A loan of Joe Serna Farmworker funds from the California Department of Housing and Community Development, in the amount of \$13,350,000.

Notwithstanding the foregoing, (i) Developer shall continue to use commercially reasonable efforts to pursue additional sources of funds that may be available to assist with the costs of developing the Project; and (ii) the Project Financing above may be changed by Developer in its discretion prior to Property Closing, subject to City's advance written approval, which shall not be unreasonably withheld; and (iii) Developer shall not accept federal Section 8 Housing Choice Vouchers or other federal funds as a source of funding

6.2 Tax Credits; Applications to TCAC. Developer shall, at the times described in the Schedule of Performance, prepare and submit a complete application to TCAC for an allocation of Tax Credits, and apply to reputable institutional investors and syndicators qualified to act as the Investor.

Developer agrees to promptly submit to City all of the following documents at such time as the same are submitted by Developer to TCAC or other applicable body or when such documents are received by Developer, as applicable:

(1) A true and correct copy of the preliminary reservation letter from TCAC, a copy of the letter of intent from the Investor reflecting the total amount of the syndication proceeds and the timing of the payment of such proceeds.

(2) A complete copy of the tax credit regulatory agreement required by TCAC.

(3) Complete copies of all correspondence or transmittals from TCAC or other jurisdiction (such as the Internal Revenue Service) containing any notification regarding the Project's noncompliance with applicable provisions of the Tax Credit Program.

6.3 Preliminary Project Budget; Final Project Budget. The Preliminary Project Budget includes a Sources and Uses of Funds Statement; the Final Project Budget will include all of the following: (i) a Sources and Uses of Funds Statement; (ii) a Cash Flow Projection; and (iv) a First Year Operating Budget. The Parties acknowledge and agree that (a) the Preliminary Project Budget represents the financing that, as of the Effective Date, Developer contemplates it will obtain for development of the Project, and (b) at such time as Developer has obtained commitments for all of the financing necessary for Developer to develop the Project, Developer shall submit to City for its written approval the Final Budget to City.

6.4 Developer Submittals. Promptly upon Developer's receipt of a notification of an award of any of the financing described in the Preliminary Project Budget or any other sources of financing, Developer shall submit to the Director copies of the award documentation received in connection with the same.

6.5 Financing Commitments. Developer shall submit to the Director, for informational purposes, preliminary commitments for the Project Financing, including, without limitation, bids received from qualified investors for the Tax Credits.

7. GROUND LEASE OF PROPERTY

7.1 Agreement. City, subject to the conditions set forth in Section 7.2 below, agrees to ground lease the Property to Developer pursuant to the Ground Lease, and Developer, subject to the conditions set forth in Section 7.3 below, agrees to ground lease the Property from City for a term of ninety-nine (99) years. Subject to each party's reserved rights hereunder, the parties shall cooperate with one another and shall exercise commercially reasonable diligence in an effort to ensure that the conditions precedent set forth in Sections 7.2 and 7.3 are timely satisfied.

7.2 Conditions for City's Benefit. City's obligation to ground lease the Property to Developer shall be subject to satisfaction of all of the following conditions precedent or City's written waiver of such conditions precedent in its sole and absolute discretion:

(a) Organizational Documents. The Director shall have received and approved a copy of such portions of the organizational documents of Developer or Developer's successor-in-interest as the Director deems reasonably necessary to document the power and authority of Developer to perform its obligations set forth in this Agreement. Developer shall have made full disclosure to City of the names and addresses of all persons and entities that have a beneficial interest in Developer.

(b) Insurance. Developer shall have submitted to City and City shall have approved Developer's evidence of the liability insurance required pursuant to Section 10.5.

(c) Evidence of Project Financing. The Director shall have received commitments from all Project Financing sources, as evidenced by letters of commitment and/or true and complete copies of loan documents, the form and substance of which shall be reasonably acceptable to City and the total amount of which is sufficient to cover all Project Costs shown in the approved Final Project Budget.

(d) Construction Contract. City shall have received a true and complete copy of a contract by and between Developer and the general contractor pursuant to which the general contractor has agreed to construct the Project at a cost that is no greater than the costs set forth therefor in the Final Project Budget.

(e) Final Construction Documents. City shall have approved the Final Construction Documents for the Project and City shall have received a full set thereof.

(f) Building Permit. The Building Permit for the Project shall have issued or shall be ready to issue subject only to the payment of applicable fees, the posting of required security, or both.

(g) Construction to Commence. The Director shall be reasonably satisfied, based on evidence provided by Developer, that construction of the Project will commence not later than thirty (30) days after the Property Closing and thereafter will be pursued to completion in a diligent and continuous manner.

(h) Management Agreement. Developer shall have submitted an executed agreement by and between Developer and Mercy Housing Management Group, a Nebraska nonprofit corporation, or another property manager approved by City for management of the Project ("**Management Agreement**"), which Management Agreement shall be consistent with this Agreement, and the Director shall have reasonably approved the same.

(i) Regulatory Agreement. Developer shall have submitted an executed regulatory agreement with signatures acknowledged by and between Developer and City, which will be recorded as an encumbrance on title to the Property and evidence the obligations of Developer with respect to the Affordability Restrictions (as defined in the Ground Lease) which shall continue for the term of the Ground Lease ("**Regulatory Agreement**").

(j) Documents Executed. Developer shall have duly executed the Ground Lease and Memorandum of Ground Lease with signatures acknowledged (as applicable) and deposited them into Escrow.

(k) Title Policy. If requested by City, Title Company is prepared to issue an owner's policy of title insurance, the form and substance of which shall be reasonably acceptable to City, naming City as the insured, showing Developer as holding leasehold title to the Property ("**City Title Policy**").

(l) Approval of Proposed Final Project Budget. Developer shall have submitted a proposed Final Project Budget to the Director, and the Director shall have reasonably approved the same.

(m) Total Project Cost. Nothing shall have come to the attention of Developer and/or City to indicate that the Project cannot be completed at a cost that is no more than stated in the Final Project Budget and, if there has been such an indication, Developer has provided evidence, reasonably satisfactory to Director, of the availability of funding sources other than City to complete the Project. If Developer becomes aware of any such information, Developer shall promptly give written notice thereof to City.

(n) Community- Serving Space. Developer shall have submitted to the Director a proposed program for the community-serving space, which outlines ongoing supportive services and programming to enrich resident well-being and quality of life, and the Director shall have reasonably approved the same. Without limiting the foregoing, the proposed program for the community-serving space shall include at least 16 weekday hours per week during which members of the general public may reserve the community-serving space. The proposed program will include applicable fees and other restrictions related to use by the general public.

(o) Representations and Warranties. The representations of Developer contained in this Agreement shall be correct in all material respects as of the Property Closing as though made on and as of that date and, if requested by the Director, City shall have received a certificate to that effect signed by Developer.

(p) No Default. No Event of Default by Developer shall then exist, and no event shall then exist which, with the giving of notice or the passage of time or both, would constitute an Event of Default by Developer and, if requested by the Director, City shall have received a certificate to that effect signed by Developer.

7.3 Conditions for Developer's Benefit. Developer's obligation to ground lease the Property from City shall be subject to satisfaction of all of the following conditions precedent or Developer's written waiver of such conditions precedent in its sole and absolute discretion:

(a) Condition of Property. No material changes shall have occurred after the Effective Date with respect to the condition of the Property, which would cause the Property to be unusable for the Project. For avoidance of doubt, the discovery of new information about the condition of the Property as of the Effective Date is not a material change in the condition of the Property for purposes of this paragraph.

(b) Evidence of Project Financing. The Developer shall have received commitments for all Project Financing, the total amount of which is sufficient to cover all Project Costs shown in the approved Final Project Budget.

(c) Total Project Cost. Nothing shall have come to the attention of Developer and/or City to indicate that the Project cannot be completed at a cost substantially consistent with the Final Project Budget and, if there has been such an indication, Developer has provided evidence, reasonably satisfactory to Director, of the availability of funding sources other than City to complete the Project.

(d) Building Permit. The Building Permit for the Project shall have issued or shall be ready to issue subject only to the payment of applicable fees, the posting of required security, or both.

(e) Title Insurance. The Title Company shall be prepared to issue its ALTA leasehold form policy of title insurance, with liability in the amount not less than the total of the equity raised from the sale of the Tax Credits plus the principal amount of the Take-Out Loan, showing leasehold title to the Property and fee title to the improvements located thereon vested in Developer, in the Condition of Property Title, with no other encumbrances or title exceptions, except (i) the Project Documents being recorded at the Property Closing pursuant to the terms of this Agreement, (ii) the lien of the Construction Loan Security Documents, (iii) the standard conditions and exceptions contained in an ALTA standard owner's policy of title insurance that is regularly issued by the Title Company in transactions similar to the one contemplated by this Agreement, and (iv) such other exceptions reasonably acceptable to Developer ("**Developer Title Policy**"). The Title Company shall provide City with a copy of the Developer Title Policy.

(f) No Default. No Event of Default by City shall then exist, and no event shall then exist which, with only the giving of notice or the passage of time or both, would constitute an Event of Default by City.

(g) Documents Executed. City shall have duly executed the Ground Lease and Memorandum of Ground Lease with signatures acknowledged (as applicable) and deposited them into Escrow.

7.4 Developer Right to Terminate. If, by the Outside Closing Date, any of the conditions set forth in Section 7.3 have not been satisfied, or waived by Developer, then Developer, provided that it is not then in material default under this Agreement (subject to the notice and cure provisions of Section 13.1), may terminate this Agreement by giving thirty (30) days' written notice to City.

7.5 City Right to Terminate. If, by the Outside Closing Date, any of the conditions set forth in Section 7.2 have not been satisfied, or waived by City, then City, provided that it is not then in material default under this Agreement (subject to the notice and cure provisions of Section 13.1), may terminate this Agreement by giving thirty (30) days' written notice to Developer.

7.6 Waiver of Conditions. The conditions set forth in Section 7.2 are for City's benefit only and the Director may waive all or any part of such rights by written notice to Developer. The conditions set forth in Section 7.3 are for Developer's benefit only and Developer may waive all or any part of such rights by written notice to City.

8. PROPERTY CLOSING; ESCROW EXPENSES

8.1 Property Closing. Upon receipt by the Escrow Holder of (i) counterparts of the Ground Lease executed by the City and Developer, (ii) counterparts of the Memorandum of Ground Lease executed and acknowledged by the City and Developer, (iii) the Regulatory Agreement executed by Developer, and (iv) all other funds and documents required to conduct the Property Closing in accordance with this Agreement, and when the Director has notified Escrow Holder that the conditions precedent described in Section 7.2 have been satisfied, or waived by the Director, and Developer has notified Escrow Holder that the conditions precedent described in Section 7.3 have been satisfied, or waived by Developer, the Escrow Holder shall take all of the following actions:

(a) Recordation. Escrow Holder shall record the following documents in the Official Records in an order or priority to be determined by the Parties prior to the Property Closing:

- (i) the Regulatory Agreement,
- (ii) the Memorandum of Ground Lease; and
- (iii) such other documents required to close the Escrow in accordance with this Agreement or other Project funding sources.

- (b) Deliveries to City. Escrow Holder shall deliver to City:
- (i) the original of the fully executed Ground Lease;
 - (ii) a conformed copy of each of the documents recorded pursuant to paragraph (a) above; and
 - (iii) City Title Policy.
- (c) Deliveries to Developer. Escrow Holder shall deliver to Developer:
- (i) a copy of the fully executed Ground Lease;
 - (ii) a conformed copy of each of the documents recorded pursuant to paragraph (a) above; and
 - (iii) Developer Title Policy.

8.2 Property Closing Expenses. Developer shall pay from one or more of the sources identified in the Project Budget all Property Closing Expenses, including, among others: (a) any and all documentary transfer taxes and recording fees arising from the leasehold conveyance of the Property from City to Developer by the Ground Lease, (b) the Escrow fee, (c) the premium for the City Title Policy and Developer Title Policy, (d) all such other costs and expenses related to the Escrow and not expressly provided for herein, and (e) all of City's legal fees related to or arising from the Property Closing and City's review and preparation of documents and information related thereto.

8.3 Instruction to Escrow Holder Regarding Waiver of Transfer Taxes and Recording Fees. The Escrow Holder is hereby instructed to seek such waivers and exemptions from transfer taxes and recording fees as are available pursuant to Revenue and Taxation Code Section 11922 and Government Code Sections 6103 and 27383, respectively.

8.4 Broker's Commissions. Developer represents and warrants to City that Developer has not engaged any broker, agent or finder in connection with this Agreement, and Developer agrees to indemnify, protect, hold harmless, and defend the Indemnitees from any claim by any brokers, agents or finders retained by Developer. City represents and warrants to Developer that City has not engaged any broker, agent, or finder in connection with this Agreement, and City agrees to indemnify, protect, hold harmless, and defend Developer and its officers, officials, members, employees, representatives, agents, and volunteers from any claim by any brokers, agents, or finders retained by City.

9. INTENTIONALLY OMITTED

10. DEVELOPMENT OF THE PROJECT

10.1 Scope of Development. As further described in the Ground Lease, Developer shall construct the Project on the Property in accordance with all applicable

Governmental Requirements, the approved Land Use Entitlements, and the Scope of Development. In the event of any conflict between the approved Land Use Entitlements and the Scope of Development, the approved Land Use Entitlements shall govern and control. Subject to Section 17.12 below, Developer shall commence and complete construction of the Project on the Property by the respective times established therefor in the Schedule of Performance. The Scope of Development shall be deemed to include any plans and specifications submitted to City for approval, and shall incorporate or show compliance with all mitigation measures.

10.2 Additional Governmental Permits and Approvals.

(a) Before commencement of construction or development of any buildings, structures or other works of improvement upon the Property by Developer, Developer shall, at its own expense, secure or cause to be secured any and all permits and approvals not included in the Land Use Entitlements which may be required by City or any other governmental agency affected by or with jurisdiction over such construction, development or work.

(b) Developer shall pay all necessary fees and timely submit to City Final Construction Documents with final corrections required by City to obtain a Building Permit.

10.3 Cost of Development. Developer acknowledges and agrees that all Project Costs shall be borne exclusively by Developer. Developer shall also bear all costs related to discharging the duties of Developer set forth in this Agreement. Developer shall also be responsible for all fees associated with development of the Project, including, but not limited to, school facilities fees and development impact fees.

10.4 Indemnity. Developer shall defend (by counsel reasonably satisfactory to City), indemnify, and hold harmless the Indemnitees from all claims or suits for, and damages to, property and injuries to persons, including accidental death (including expert witness fees, attorney's fees and costs), to the extent arising out of the activities and/or performance of Developer or any of Developer's employees, agents, representatives, contractors, subcontractors or consultants under or with respect to (i) this Agreement, the Ground Lease or the Regulatory Agreement, (ii) a claim, demand or cause of action that any person has or asserts against Developer and/or any of the indemnitees; (iii) any act or omission of Developer, any of Developer's contractors, subcontractors or material suppliers, engineers, architects or other persons with respect to the Property; or (iv) the lease, occupancy or use of the Property by Developer, whether such damage shall accrue or be discovered before or after termination of this Agreement. Developer's indemnification obligations pursuant to this Section 10.4 shall not apply to the extent that such claims, suits, or damages arise out of the intentional misconduct or gross negligence of any of the Indemnitees. The obligations and indemnifications in this Section 10.4 shall constitute covenants running with the land.

10.5 Insurance Requirements.

(a) Commencing on the date of the Property Closing and continuing throughout the term of this Agreement and the term of the Ground Lease, Developer shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to the Director, the following policies of insurance:

(i) Commercial General Liability Insurance covering bodily injury, property damage, personal injury and advertising injury written on an occurrence basis with coverage at least as broad as Insurance Services Office (ISO) form CG 00 01, containing the following minimum limits: (i) general aggregate limit (including excess coverage) of Ten Million Dollars (\$10,000,000); (ii) products-completed operations aggregate limit of Three Million Dollars (\$3,000,000); (iii) personal and advertising injury limit of Three Million Dollars (\$3,000,000); and (iv) each occurrence limit of Three Million Dollars (\$3,000,000). Said policy shall include the following coverages: (i) products and completed operations; (ii) independent contractors; (iii) Owner's broad form property damage; (iv) severability of interest; (v) cross liability; and (vi) property damage liability arising out of the so-called "XCU" hazards (explosion, collapse and underground hazards). The policy shall be endorsed to have the general aggregate apply to this Project only. Notwithstanding the foregoing, if prior to the Property Closing Developer provides evidence reasonably satisfactory to City that the Ten Million Dollar \$10,000,000 general aggregate limits in this section will result in commercially unreasonable Project costs, City and Developer shall meet and confer regarding potential options that will not result in an unreasonable risk to City, as determined by City in City's sole and absolute discretion, including, without limitation, a reduction in the limit to a level that will reduce such insurance coverage to a financially feasible level.

(ii) A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure, and provide legal defense for City and Developer against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by Developer in the course of carrying out the work or services contemplated in this Agreement, and Employers Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) combined single limit for all damages arising from each accident or occupational disease.

(iii) A policy of comprehensive automobile liability insurance written on an occurrence basis using ISO Business Automobile Coverage form CA 00 01 (or equivalent), in an amount not less than Two Million Dollars (\$2,000,000) each accident covering all owned, non-owned, leased, and hired vehicles used in

connection with the work; provided, however, that if Developer does not own vehicles it may satisfy this provision through a rider to its general liability coverage for non-owned/hired vehicles.

(b) Commencing on the date of the Property Closing and continuing until City issues a temporary certificate of occupancy (“TCO”) for the Project, Developer shall procure and maintain, at its sole cost and expense, in a form and content reasonably satisfactory to the Director, Builder’s Risk (course of construction) insurance coverage in an amount equal to the full cost of the hard construction costs of the Project. Such insurance shall cover, at a minimum: all work, materials, and equipment to be incorporated into the Project; the Project during construction; the completed Project until such time as City issues a TCO for the Project; and storage and transportation risks. Such insurance shall protect/insure the interests of Developer/owner and all of Developer’s contractor(s), and subcontractors, as each of their interests may appear. If such insurance includes an exclusion for “design error,” such exclusion shall only be for the object or portion which failed. City shall be a loss payee under such policy or policies and such insurance shall contain a replacement cost endorsement

(c) Developer shall cause any general contractor with whom it has contracted for the performance of work on the Property to secure and thereafter to maintain insurance that satisfies all of the requirements of Section 10.5(a) and Section 10.5(e) prior to the general contractor commencing any activities on the Property.

(d) Commencing on the date City issues a TCO, and continuing throughout the term of the Ground Lease, Developer shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to the Director, the following types of insurance:

(i) Insurance against fire, extended coverage, vandalism, and malicious mischief, and such other additional perils, hazards, and risks as now are or may be included in the standard “all risk” form in general use in the City of Half Moon Bay, California, with the standard form fire insurance coverage in an amount equal to full actual replacement cost thereof, as the same may change from time to time. City shall be a loss payee under such policy or policies and such insurance shall contain a replacement cost endorsement.

(ii) Business interruption and extra expense insurance to protect Developer and City covering loss of revenues and/or extra expense incurred by reason of the total or partial suspension or delay of, or interruption in, the operation of the Project caused by loss or damage to, or destruction of, any part of the insurable real property structures or equipment as a result of the perils insured against under the all risk physical damage insurance, covering a period of suspension, delay or interruption of at least twelve (12) months, in an amount not less than the amount required to cover

such business interruption and/or extra expense loss during such period.

(iii) Boiler and machinery insurance in the aggregate amount of the full replacement value of the equipment typically covered by such insurance.

(e) The following additional requirements shall apply to all of the above policies of insurance:

(i) All of the above policies of insurance shall allow and be endorsed primary insurance, except the Worker's Compensation, Employer Liability insurance. The commercial general liability and automobile liability insurance, shall be endorsed to name the Indemnitees as additional insureds. The commercial general liability shall be endorsed on an ISO Form CG 20 10 for ongoing operations and CG 20 37 for completed operations (current version) or equivalent forms. Developer waives its right to recover against Indemnitees and their respective insurers for all claims and losses covered by the insurance policies required by this Agreement, and shall cause its insurers to waive all rights of subrogation and contribution it may have against the Indemnitees and their respective insurers and shall provide an endorsement affecting such. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days' prior written notice to City. If a carrier will not provide the required notice of cancellation, the Developer shall provide written notice to the City of a cancellation no later than ten (10) business days before cancellation. In the event any of said policies of insurance are cancelled, Developer shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section to the Director. Not later than the Effective Date, Developer shall provide the Director with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders shall be subject to the reasonable approval of the Director.

(ii) The policies of insurance required by this Agreement shall be satisfactory only if issued by companies of recognized good standing authorized to do business in California, rated "A-" or better in the most recent edition of AM Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Director due to unique circumstances.

(iii) Any available insurance proceeds broader than, or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum insurance requirements are sufficient to cover the obligations of the Developer.

(iv) Developer agrees that the provisions of this Section shall not be construed as limiting in any way City's right to indemnification or the extent to which Developer may be held responsible for the payment of damages to any persons or property resulting from Developer's activities or the activities of any person or persons for which Developer is otherwise responsible.

10.6 Remedies for Defaults Regarding Insurance. In addition to any other remedies City may have, if Developer commits a default hereunder by failing to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may obtain such insurance and invoice Developer for the amount of said premium, which sums shall be due from Developer to City upon receipt of the invoice.

10.7 Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance. If the Project shall be totally or partially destroyed or rendered uninhabitable by fire or other casualty required to be insured against by Developer, Developer shall, subject to the rights of the Construction Lender, promptly proceed to obtain all available insurance proceeds and, to the extent proceeds are available, take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds, to promptly and diligently commence the repair or replacement of the Project to substantially the same condition as it existed prior to the casualty, and Developer shall complete or cause to be completed the same as soon as possible thereafter so that the Project can be operated in accordance with this Agreement. City shall cooperate with Developer, at no expense to City, in an effort to obtain any governmental permits required for such repair, replacement, or restoration.

10.8 Rights of Access. For purposes of assuring compliance with this Agreement, representatives of City shall have the right of access to the Property without charges or fees, at normal business hours during the construction of the Project (subject to reasonable job safety rules as may be imposed by Developer or the Developer's general contractor), including, but not limited to, the inspection of the work being performed in constructing the Project, so long as they comply with all safety rules. Such representatives of City shall be those who are so identified in writing by the Director.

10.9 Compliance with Laws; Compliance with Prevailing Wage Laws.

(a) Compliance with Laws. Developer shall carry out the construction, development and operation of the Project in conformity with all Governmental Requirements, including without limitation, all applicable state labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all applicable disabled and handicapped access requirements, including without limitation 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.

(b) Compliance with Prevailing Wage Laws.

(i) Developer shall carry out the construction through completion of the Project and the overall development of the Property in conformity with all applicable Governmental Requirements relating to the payment of prevailing wages and compliance with prevailing wage rules, including, without limitation, if applicable, the requirements to pay prevailing wages under California law (Labor Code Section 1720, et seq.) (“**California Prevailing Wage Law**”). The parties acknowledge that a financing structure utilizing certain federal and/or state funding sources and financing scenarios may trigger compliance with applicable state and federal prevailing wage laws and regulations. Developer shall determine the applicability of federal, state, and local prevailing wage laws based upon the final financing structure and sources of funding of the Project, as approved by the Director.

(ii) Developer shall be solely responsible, expressly or impliedly, and legally and financially, for determining and effectuating compliance with all applicable federal, state, and local public works requirements, prevailing wage laws, and labor laws and standards, and City makes no representation, either legally and/or financially, as to the applicability or non-applicability of any federal, state, and local laws to the construction of the Project. Developer expressly, knowingly, and voluntarily acknowledges and agrees that City has not previously represented to Developer or to any representative, agent, or Affiliate of Developer, or any contractor(s) or any subcontractor(s) for the demolition work, construction, or development of the Project, in writing or otherwise, in a call for bids or otherwise, that the work and construction of the Project is (or is not) a “public work,” as defined in Section 1720 of the Labor Code.

(iii) Developer knowingly and voluntarily agrees that Developer, and not City, shall have the obligation to provide any and all disclosures or identifications to any contractor for the Project as required by Labor Code Section 1781, as the same may be amended from time to time, or any other similar law or

regulation. Developer shall indemnify, protect, pay for, defend, and hold harmless the Indemnitees, with legal counsel reasonably acceptable to City, from and against any and all loss, liability, damage, claim, cost, expense, and/or "increased costs" (including reasonable attorney's fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction (as defined by applicable law) and/or operation of the Project, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (i) the noncompliance by Developer or its agents or contractor with any applicable local, state, and/or federal law or regulation, including, without limitation, any applicable federal and/or state labor laws or regulations (including, without limitation, if applicable, the requirement to pay state and/or federal prevailing wages and hire apprentices); (ii) the implementation of Section 1781 of the Labor Code, as the same may be amended from time to time, or any other similar law or regulation; and/or (iii) failure by Developer to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be amended from time to time, or any other similar law or regulation. It is agreed by the parties that, in connection with the demolition work, development, and construction (as defined by applicable law or regulation) of the Project, including, without limitation, any and all public works (as defined by applicable law or regulation), Developer shall bear all risks of payment or non-payment of prevailing wages under applicable federal, state, and local law or regulation and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law or regulation. The foregoing indemnity shall survive termination of this Agreement and shall continue after completion of the construction and development of the Project by Developer.

(iv) "Increased costs," as used in this Section 10.10, shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be amended from time to time.

10.10 Anti-Discrimination. Developer for itself and its successors and assigns, agrees, that in the construction of the Project on the Property or other performance under this Agreement, Developer shall not discriminate against any employee or applicant for employment on 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.

10.11 Taxes and Assessments. After the Property Closing, Developer shall pay prior to delinquency all real estate taxes and assessments on the Property so long as Developer retains any interest therein. Notwithstanding the above, Developer shall have

the right to contest the validity or amounts of any tax, assessment, or encumbrance available to Developer in respect thereto, or obtain any available exemptions, provided that Developer does so in a diligent manner.

10.12 Right of City to Satisfy Other Liens on the Property(s). If Developer obtains written notice or actual knowledge of any lien or encumbrance on the Property which is not permitted under this Agreement, and Developer has failed after a reasonable time (but not less than forty-five (45) days) thereafter to challenge, cure, adequately bond against, or satisfy such lien or encumbrance, City shall have the right (but not the obligation) to satisfy any such lien or encumbrance, and Developer shall be liable to City, upon written demand, for all costs incurred by City in pursuit thereof, including without limitation City's attorneys' fees and costs. Nothing in the foregoing sentence shall be construed as limiting any right available to Developer to contest the validity or amounts of any tax, assessment, or encumbrance on the Property. This Section 10.12 shall survive termination of the Agreement.

10.13 Non-liability of City. Developer acknowledges and agrees that:

(a) City neither undertakes nor assumes any responsibility to review, inspect, supervise, approve (other than for aesthetics) or inform Developer of any matter in connection with the Project, including matters relating to: (i) the Final Construction Documents, (ii) architects, contractors, subcontractors and materialmen, or the workmanship of or materials used by any of them, (iii) the Final Project Budget, and/or (iv) the progress of the Project and its conformity with the Final Construction Documents; and Developer shall rely entirely on its own judgment with respect to such matters and acknowledge that any review, inspection, supervision, approval or information supplied to Developer by City in connection with such matters is solely for the protection of City and that neither Developer nor any third party is entitled to rely on it;

(b) City is not a partner, joint venturer, alter-ego, manager, controlling person or other business associate or participant of any kind of Developer and City does not intend to ever assume any such status; and City shall not be deemed responsible for or a participant in any acts, omissions or decisions of Developer;

(c) City shall not be directly or indirectly liable or responsible for any loss or injury of any kind to any person or property resulting from any construction on, or occupancy or use of, the Property whether arising from: (i) any defect in any building, grading, landscaping or other onsite or offsite improvement or condition; (ii) any act or omission of Developer or any of Developer's agents, employees, contractors, consultants, licensees or invitees; or (iii) from and after the Property Closing any accident on the Property or any fire or other casualty or hazard thereon; and

(d) By accepting or approving anything required to be performed or given to City under this Agreement, including any certificate, financial statement, survey, appraisal or insurance policy, City shall not be deemed to have warranted or represented the sufficiency or legal effect of the same, and no such acceptance or approval shall constitute a warranty or representation by City to anyone.

11. AFFORDABILITY COVENANTS

As more particularly provided in Ground Lease, ten (10) dwelling units in the Project shall be rented to households whose incomes do not exceed thirty percent (30%) of the area median income for San Mateo, adjusted for household size (the “**Adjusted AMI**”), and twenty-nine (29) of the dwelling units in the Project shall be rented to households whose incomes do not exceed fifty percent (50%) of the Adjusted AMI; with all of such dwelling units rented at an affordable rent, pursuant to TCAC regulations. Notwithstanding the foregoing, however, if Developer or its Investor reasonably determines prior to the Property Closing that based on the Project’s residual analysis test, maximum rent levels would need to be increased after the fifty-fifth (55th) year of operation, then the Ground Lease shall permit such increase after the fifty-fifth (55th) year of operation, but only to the extent necessary to satisfy the residual analysis test and subject to the reasonable approval of City. By way of clarification, City and Developer agree that to the extent the rent levels need to be increased, as described above, such increase shall cause the rent to remain within an affordable level and shall not cause the rent to increase to a market rate rent.

12. GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

12.1 Developer’s Formation, Qualification and Compliance. Developer represents and warrants that (a) it is validly existing and in good standing under the laws of the State of California, (b) it has all requisite authority to conduct its business and own and lease its properties, (c) it has all requisite authority to execute and perform its obligations under this Agreement, (d) this Agreement is binding upon Developer in accordance with its terms, and (e) the individuals executing this Agreement on behalf of Developer are duly authorized to execute and deliver this Agreement on behalf of Developer.

12.2 Litigation. Developer represents and warrants that there are no actions, lawsuits or proceedings pending or, to the best of Developer’s knowledge, threatened against or affecting Developer, the outcome of which could have a material adverse effect on Developer’s ability to perform its obligations under this Agreement.

12.3 City. City represents and warrants that (a) it is validly existing and in good standing under the laws of the State of California, (b) it has all requisite authority to conduct its business and own and lease its properties, (c) it has all requisite authority to execute and perform its obligations under this Agreement, (d) this Agreement is binding upon City in accordance with its terms, and (e) the individuals executing this Agreement on behalf of City are duly authorized to execute and deliver this Agreement on behalf of City.

13. DEFAULTS AND REMEDIES

13.1 Event of Default. Any of the following events or occurrences with respect to either Party shall constitute a material breach of this Agreement and, after the

expiration of any applicable cure period, shall constitute an “**Event of Default**” by such party:

(a) The failure by either Party to pay any amount in full when it is due under this Agreement, if the failure has continued for a period of ten (10) days after the Party entitled to payment demands in writing that the other Party cure that failure.

(b) The failure by either Party to perform any other obligation under this Agreement, if the failure has continued for a period of thirty (30) days after demand in writing that such Party cure the failure, or such shorter time period as may be provided for in one of the other Project Documents. If, however, by its nature the failure cannot reasonably be cured within said time period, such Party may have such longer period of time as is reasonably necessary to cure the failure, provided that such Party commences said cure within said thirty (30)-day period, and thereafter diligently prosecutes said cure to completion within a period of no more than ninety (90) days.

13.2 Remedies. The occurrence of any Event of Default shall give City the right to proceed with an action in equity to require Developer to specifically perform its obligations and covenants under this Agreement or to enjoin acts or things which may be unlawful or in violation of the provisions of this Agreement, and the right to terminate this Agreement.

13.3 No Waiver. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any 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.

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

13.5 Attorneys’ Fees. If either Party to this Agreement is required to initiate or defend litigation in any way connected with this Agreement, the prevailing Party in such litigation, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys’ fees.

13.6 Reimbursement of City. Within thirty (30) days after its receipt of written demand from City, Developer shall reimburse City for all costs reasonably incurred by City (including the reasonable fees and expenses of attorneys, accountants, appraisers and other consultants) in connection with City enforcement of the Project Documents and all related matters, including, without limitation, the following: (a) City’s commencement of, appearance in, or defense of any action or proceeding purporting to affect the rights or obligations of the Parties to any Project Document; and (b) all claims, demands, causes of action, liabilities, losses, and other costs against which any of the Indemnitees is

15. ASSIGNMENT

15.1 Generally Prohibited. Except as otherwise expressly provided to the contrary in this Agreement, Developer shall not assign any of its rights or delegate any of its duties under this Agreement, nor shall any changes occur with respect to the ownership and/or control of Developer, including, without limitation, stock transfers, or transfers, sales or issuances of membership or ownership interests, or statutory conversions, without the prior written consent of the Director, which consent may be withheld in his or her sole and absolute discretion. Any such assignment or delegation without such consent shall, at City's option, be void. Notwithstanding the foregoing, however, (i) the Investor may be admitted to the Developer as a 99.99% Tax Credit limited partner without obtaining any consent, and such Investor may assign any or all of its interests as a 99.99% Tax Credit limited partner without any consent, provided notice thereof is delivered in writing to City concurrently with such assignment; (ii) the Investor may remove the general partner for a default under the Partnership Agreement; and (iii) Developer may transfer and assign its rights and duties hereunder to Mercy or an Affiliate of Mercy pursuant to the purchase option and/or right of first refusal entered into between Mercy (or an Affiliate of Mercy) and Developer, provided notice thereof is delivered in writing to City concurrently with such assignment. This Section 15.1 shall not be applicable to the leasing of individual dwelling units to income eligible households in accordance with the Ground Lease or to the leasing of the Project's commercial space in accordance with the Ground Lease.

15.2 Release of Developer. Upon any such assignment made in compliance with Section 15.1 above which is evidenced by a written assignment and assumption agreement in a form approved by City in its sole and absolute discretion, the transferor shall be released from any liability under this Agreement arising from and after the effective date of such assignment.

16. ADMINISTRATION

Following approval of this Agreement by City, this Agreement shall be administered and executed on behalf of City by the Director. The Director shall have the authority to issue interpretations, waive terms and conditions, enter into subordination agreements with other Project funding sources, and enter into implementing agreements and amendments to this Agreement (including, without limitation, to the Schedule of Performance) on behalf of City provided that such actions do not substantially change the uses or development permitted on the Property, materially add to the costs or obligations, increase the risk of liability, or impair the rights or remedies, of City provided herein, or materially decrease the revenues or other compensation to be received by City hereby. All other waivers or amendments shall require the formal consent of the City Council.

17. MISCELLANEOUS

17.1 Counterparts. This Agreement may be executed in counterparts, all of which, taken together, shall be deemed to be one and the same document.

17.2 Prior Agreements; Amendments. This Agreement contains the entire agreement between City and Developer with respect to the Project and the Property, and all prior negotiations, understandings and agreements are superseded by this Agreement. No modification of this Agreement (including waivers of rights and conditions) shall be effective unless in writing and signed by the Party against whom enforcement of such modification is sought, and then only in the specific instance and for the specific purpose given. City agrees to consider in good faith making reasonable modifications to this Agreement that are necessary to finance the development of the Project.

17.3 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of California, without regard to conflict of law principles.

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

17.5 Severability of Provisions. No provision of this Agreement that is held to be unenforceable or invalid shall affect the remaining provisions if and to the extent that the primary purposes of this Agreement can still be accomplished without materially impairing the rights or increasing the obligations or risks of each Party, as reasonably determined by that Party, and to that extent all provisions of this Agreement are hereby declared to be severable.

17.6 Interpretation. Both Parties have participated in the drafting of this Agreement and any ambiguities in this Agreement shall not be construed for or against either Party on account of the authorship or presumed authorship hereof. Article and section headings are included in this Agreement for convenience of reference only and shall not be used in construing this Agreement. Any defined term used in the plural in this Agreement shall refer to all members of the relevant class and any defined term used in the singular shall refer to any of the members of the relevant class. References herein to Articles, Sections, and Attachments shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears. The terms “including” and “include” mean “including (include) without limitation.”

17.7 Accounting Principles. Any accounting term used and not specifically defined in this Agreement shall be construed, and all financial data required to be submitted under this Agreement shall be prepared, in conformity with generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to City.

17.8 Attachments Incorporated. All attachments to this Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

17.9 Time of the Essence. Time is of the essence of this Agreement.

17.10 Warranty Against Payment of Consideration. Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

17.11 Non-liability of City Officials and Employees. No member, director, officer, employee, or volunteer of City 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 successor, or on any obligation under the terms of this Agreement.

17.12 Force Majeure. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God or other deities; acts of the public enemy; epidemics; pandemics; quarantine restrictions; freight embargoes; litigation beyond the reasonable control of a Party; referendum; unusually severe weather; inability, despite commercially reasonable efforts, to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier beyond the reasonable control of a Party; acts or the failure to act of any public or governmental entity (except that acts or the failure to act of City shall not excuse performance by City); or any other acts or causes beyond the reasonable control of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause. Force Majeure shall serve also to extend the time by which any condition, for the benefit of either Party, shall be satisfied under this Agreement. Notwithstanding any provision of this Agreement to the contrary, in no event shall adverse market conditions, interest rates, the lack of funding or difficulty obtaining the financing necessary to complete the Project constitute a Force Majeure event under this Section.

17.13 Nondiscrimination Covenants. 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 Property, 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 Property. The foregoing covenants shall run with the land.

Developer shall refrain from restricting the rental, sale or lease of the Property on any of the bases listed above in this Section 17.13. All such deeds, leases or contracts

shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: “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.”

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

“That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the 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.”

(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 which are the subject of this Agreement, 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.”

The covenants established in this Section 17.13 shall, without regard to technical classification and designation, be binding for the benefit and in favor of City and its successors and assigns, and shall remain in effect in perpetuity. Notwithstanding the foregoing, Developer acknowledges and agrees that it shall have no right to sell or transfer all or any portion of the fee interest in the Property or Project and that Developer's only rights with respect to the Property and Project shall arise under the Ground Lease pursuant to which it is the ground lessee.

17.14 Consents and Approvals. Any consent or approval to be given by a Party under this Agreement shall not be unreasonably withheld, conditioned or delayed, except where this Agreement states that the consent or approval is within the sole discretion of a Party.

17.15 No Third Party Beneficiary. No person or entity other than City and Developer, and the permitted successors and assigns of each of them, shall be authorized to enforce the provisions of this Agreement.

17.16 Termination. This Agreement shall automatically terminate upon City's issuance of a TCO for the Project. Such termination shall not terminate any indemnification obligations set forth in this Agreement, whether or not their survival is expressly stated, or any other provisions in this Agreement which are expressly stated in this Agreement to survive termination of this Agreement.

[End of Agreement – Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed.

“City”

CITY OF HALF MOON BAY, a municipal corporation

By: _____
Matthew Chidester, City Manager

Approved as to form:

By: _____
Denise Bazzano, Interim City Attorney

“Developer”

MERCY HOUSING CALIFORNIA 110, L.P.,
a California limited partnership

By: Mercy Housing California 110 LLC,
a California limited liability company
Its: General Partner

By: Mercy Housing California,
a California nonprofit public benefit corporation
Its: Sole member/manager

By: _____
Ramie Dare
Vice President

ATTACHMENTS

- 1 - Legal Description of Property
- 2 - Site Map
- 3 - Schedule of Performance
- 4 - Scope of Development
- 5 - Preliminary Project Budget
- 6 - Form of Ground Lease

DRAFT

ATTACHMENT NO. 1

LEGAL DESCRIPTION OF PROPERTY

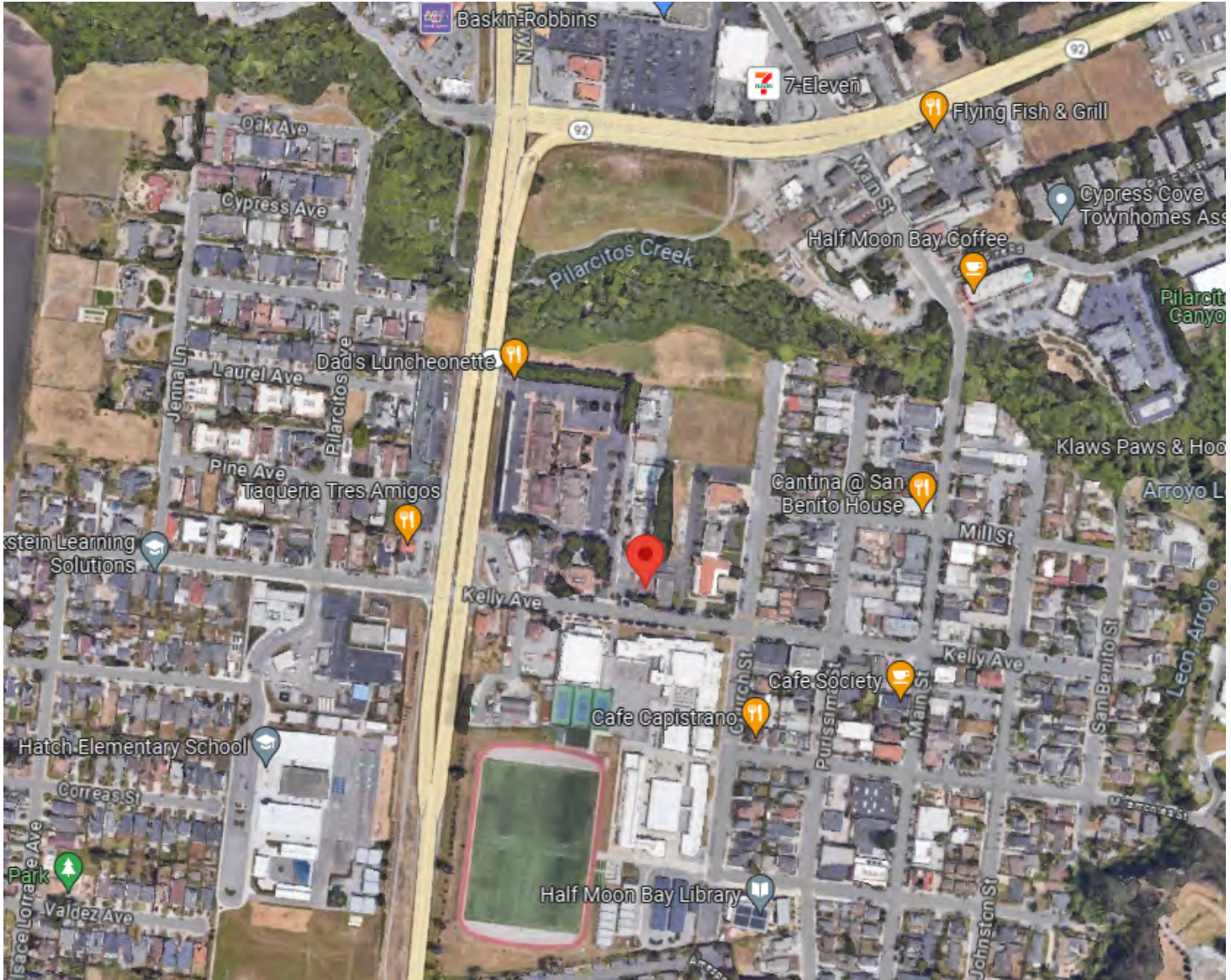
The land referred to is situated in the County of San Mateo, City of Half Moon Bay, State of California, and is described as follows:

[INSERT LEGAL DESCRIPTION]

DRAFT

ATTACHMENT NO. 2

SITE MAP



882/034767-0002
15208733.2 a03/10/26
4901-6868-4182 v1 4904-5992-7940 v10
485.254/693277485.254/693277485.254/693277

ATTACHMENT NO. 2

ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

ITEM OF PERFORMANCE		TIME FOR PERFORMANCE
1.	Developer submits applications for State of California Infrastructure Infill Grant and Joe Serna Jr. Farmworker financing	Completed: IIG funding secured in 2023 Serna funding secured in 2025
2.	Developer prepares and submits application to TCAC for a preliminary reservation of Tax Credits and applies to reputable institutional investors and syndicators qualified to act as the Investor	Next available TCAC round immediately following Developer securing financing commitments to be competitive for Tax Credits and Developer determines that City's Building Permit will be issued no later than 180 days after a Tax Credit award.
3.	If the first application for Tax Credits is not successful, Developer submits second application for Tax Credits	Next available TCAC round immediately following disapproval of previous application.
4.	Developer submits Final Project Budget to City	Immediately after Developer secures final financing terms and credit approval from Construction Lender and Tax Credit Investor
5.	Property Closing occurs	Upon satisfaction or waiver of conditions set forth in Section 7.2 and 7.3, but in no event later than the Outside Closing Date.
6.	Developer obtains Building Permit and commences construction of the Project.	No later than 30 days after Property Closing.
7.	Developer completes construction of the Project	Within 25 months after commencement of construction.

ITEM OF PERFORMANCE		TIME FOR PERFORMANCE
8.	Developer provides quarterly progress reports to City.	<p>Until Project is 100% occupied at initial lease up.</p> <p>Developer's obligation to provide quarterly reports shall survive termination of this Agreement.</p>

It is expressly understood and agreed by the Parties that the foregoing schedule of performance is subject to all of the terms and conditions set forth in the text of the Agreement including, without limitation, extension due to Force Majeure. Times of performance under the Agreement may be extended by request of any Party memorialized by a mutual written agreement between the Parties, which agreement may be granted or denied in the non-requesting Party's sole and absolute discretion (subject to events of force majeure set forth in this Agreement).

DRAFT

ATTACHMENT NO. 4
SCOPE OF DEVELOPMENT

The proposed project, located at 555 Kelly Avenue, includes the construction of a 40-unit senior farmworker multifamily housing affordable housing complex. All of the units except one manager's unit in the proposed project will be affordable and income-restricted to households earning from 30% to 50% of the Area Median Income (AMI), and will be set aside for current or retired farmworkers 55 years of age and older. The project also includes 2,358 sq. ft. of residential common space, a 2,658 sq. ft. community-serving space, a 717 sq. ft. property management office space, 18 on-site parking spaces for residents and 18 off-site parking spaces to replace the spaces lost at the Ted Adcock Community Center and thirty-two (32) bicycle parking spaces.

ATTACHMENT NO. 5
PRELIMINARY PROJECT BUDGET

555 Kelly Financing Plan

CA Serna Farmworker Housing Program	\$	13,350,000	Secured
State Earmark: Senator Josh Becker	\$	2,000,000	Secured
CA Infrastructure Infill Grant	\$	2,756,304	Secured
San Mateo County ARPA	\$	1,141,234	Secured
San Mateo County AHF	\$	7,750,000	Application in 2026
Federal Earmark: Anna Eshoo	\$	1,800,000	Secured
Low Income Housing Tax Credit Program	\$	15,143,778	Application in 2026
Total Sources	\$	43,941,316	

Development Uses (Costs)

Demolition, TACC Parking Reconfiguration and Infrastructure Required for Project	\$	2,756,304
New Building Construction	\$	28,530,377
Architecture, Engineering, Construction Supervision	\$	2,017,665
Local Permit and Utility Fees	\$	1,730,431
Financing Costs: Construction Interest and Insurance, Lender Fees, Reserves, Other	\$	8,531,539
Furnishings, Marketing and Lease Up	\$	375,000
Total Development Costs	\$	43,941,316

ATTACHMENT NO. 6

GROUND LEASE

[to be inserted]

DRAFT

GROUND LEASE

By and Between

CITY OF HALF MOON BAY

“Landlord”

and

MERCY HOUSING CALIFORNIA 110, L.P.

“Tenant”

Dated as of _____, 2026

GROUND LEASE

This **GROUND LEASE** (“**Ground Lease**”) dated as of _____ (“**Effective Date**”), is entered into by and between **CITY OF HALF MOON BAY**, a municipal corporation (“**Landlord**”), and **MERCY HOUSING CALIFORNIA 110, L.P.**, a California limited partnership (“**Tenant**”).

R E C I T A L S

A. Landlord owns fee title to that certain real property located at 555 Kelly Avenue, in the City of Half Moon Bay, State of California more particularly described in Exhibit “A”, which is attached hereto and incorporated herein by this reference (“**Property**”).

B. Tenant is controlled by an experienced owner, developer and manager of affordable housing for low and moderate-income families.

C. Landlord entered into an Affordable Housing and Property Disposition Agreement with Tenant, dated as of _____, 2026 (“**Agreement**”). Landlord will also enter into a regulatory agreement with Tenant (“**Regulatory Agreement**”), which will be recorded as an encumbrance on title to the Property and evidence the obligations of Tenant with respect to the Affordability Restrictions (as defined below).

D. The Agreement provides for Landlord to ground lease the Property to Tenant, and for Tenant to (i) construct and operate a forty (40) unit senior farmworker multifamily apartment project with all but one (1) of such units restricted for occupancy by extremely low and very low income households, as further described in Section 8.1 (“**Affordability Restrictions**”), (ii) construct and operate, or provide for the operation of, residential common space and property management office space, (iii) construct and provide for the operation of an approximately 2,600 square feet community-serving space, and (iv) provide parking spaces for 18 on-site parking spaces (including two (2) ADA spaces) and 18 off-site parking spaces to replace the spaces lost at the Ted Adcock Community Center and thirty-two (32) bicycle parking spaces (collectively, “**Project**”).

E. All conditions precedent to the parties entering into this Ground Lease have been satisfied or waived by the applicable party.

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which are incorporated herein by this reference, and the mutual promises, covenants, and conditions herein contained, Landlord and Tenant agree as follows:

ARTICLE 1. LEASE OF THE PROPERTY

1.1 Ground Lease of the Property; Acquisition of Improvements. Landlord leases the Property to Tenant, and Tenant leases the Property from Landlord, on the terms and conditions as set forth in this Ground Lease. Pursuant to the Agreement and subject to the provisions of Section 5.3 hereof, concurrent with the Effective Date of this Ground Lease Tenant will acquire title to all Improvements on the Property and hold title to such Improvements during the Term hereof. For purposes of this Ground Lease, the Property is the leased premises.

1.2 Purpose of Ground Lease. The purpose of this Ground Lease is to provide for the construction, maintenance, repair, management and operation of the Project as a forty (40) unit senior farmworker multifamily apartment project, encumbered by the Regulatory Agreement, with a ground floor community serving space and a property management office. Tenant will not occupy or use the Property, nor permit the Property to be occupied or used, nor do or permit anything to be done in or on the Property, in whole or in part, for any other purpose.

1.3 Recorded Encumbrances. This Ground Lease, the interests of Landlord and Tenant hereunder, and the Property, are in all respects subject to and bound by all of the covenants, conditions, restrictions, reservations, rights, rights-of-way, and easements of record prior to the recordation of this Ground Lease.

1.4 Memorandum of Ground Lease. A short form Memorandum of Ground Lease referring to this Ground Lease, substantially in the form attached hereto and incorporated herein as "Exhibit B", shall be executed by Landlord and Tenant concurrently herewith, and recorded in the Official Records of the County of San Mateo, California ("**Official Records**").

1.5 Regulatory Agreement. The Regulatory Agreement, substantially in the form attached hereto and incorporated herein as "Exhibit C", shall be executed by Landlord and Tenant concurrently herewith, and recorded in the Official Records.

ARTICLE 2. DEFINITIONS.

Capitalized terms used herein are defined where first used in this Ground Lease and/or as set forth in this Article 2. All capitalized terms not defined herein shall have the same meanings ascribed to them in the Agreement. For the purpose of supplying such definitions, the Agreement, notwithstanding anything contained therein or herein to the contrary, shall not merge with this Ground Lease.

"**Adjusted AMI**" has the meaning in Section 8.1.1.

"**Affiliate**" means any "Person," directly or indirectly, "Controlling" or "Controlled" by or under common "Control" with such Person, whether by direct or indirect ownership of equity interests, by contract or otherwise, where "**Person**" means any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of

any kind, “**Control**” means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by ownership of equity interests, by contract or otherwise, and “**Controlling**” and “**Controlled**” means exercising or having Control.

“**Affordability Restrictions**” has the meaning set forth in Recital D.

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

“**ALAS**” means Ayudando Latinos A Soñar (ALAS), the currently approved operator of the ground-floor community serving space.

“**Assignee**” has the meaning set forth in Section 19.1.4.

“**Base Rent**” means the sum of One Dollar (\$1.00) per year.

“**Certificate of Occupancy**” means the temporary or final certificate of occupancy issued by City for the Project.

“**City**” means the City of Half Moon Bay.

“**Commencement Date**” means the date upon which the Memorandum of Ground Lease is recorded in the Official Records.

“**CPI Adjustment**” means the percentage increase in the cost of living index, as measured by the Consumer Price Index for all urban consumers, San Francisco-Oakland-Hayward statistical area, all items (1982-84 = 100) published by the United States Department of Labor, Bureau of Labor Statistics (“CPI”) between the CPI figure in effect as of the date on which the final Certificate of Occupancy is issued and the CPI figure in effect as of the date on which an adjustment is made. If such index is discontinued or revised, such other index with which such index is replaced (or if not replaced, another index which reasonably reflects and monitors consumer prices) shall be used in order to obtain substantially the same results as would have been obtained if the discontinued index had not been discontinued or revised. If the CPI is changed so that the base year is other than 1982-84, the CPI shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics.

“**Director**” means the person duly appointed to the position of Director of Landlord, or his or her designee. The Director shall represent Landlord in all matters pertaining to this Ground Lease. Whenever a reference is made herein to an action or approval to be undertaken by Landlord, the Director is authorized to act unless this Ground Lease specifically provides otherwise or the context should otherwise require.

“**Environmental Laws**” has the meaning set forth in Section 12.1(b).

“**Event of Default**” has the meaning set forth in Article 18.

“First Preference,” “Second Preference” and “Third Preference” each have the meaning set forth in Section 8.5.

“Foreclosure Transferee” means any Mortgagee or other transferee of the leasehold interest under this Ground Lease as a result of a judicial foreclosure, non-judicial foreclosure or assignment of the leasehold in lieu of foreclosure.

“Governmental Requirements” means all past, present and future laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State of California, the City, or any other political subdivision in which the Property is located, and any other state, county city, political subdivision, agency, instrumentality or other entity exercising jurisdiction over the Property, including common law.

“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, but not limited to, any material or substance which is (i) defined as a “hazardous waste”, “acutely hazardous waste”, “extremely hazardous waste”, or “restricted hazardous waste” under Section 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) 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 Code of Regulations, Chapter 20, (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903), (xi) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., (xii) methyl-tertiary butyl ether, (xiii) perchlorate or (xiv) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any Governmental Requirements either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as “hazardous” or harmful to the environment. For purposes hereof, “Hazardous Materials” excludes materials and substances in quantities as are commonly used in the construction and operation of an apartment complex, provided that such materials and substances are used in accordance with all applicable laws.

“Hazardous Materials Activity” has the meaning set forth in Section 12.1(c).

“HCD” means the California Department of Housing and Community Development.

“**HUD**” means the U.S. Department of Housing and Urban Development.

“**Impositions**” means all taxes (including, without limitation, sales and use taxes); assessments (including, without limitation, all assessments for public improvements or benefits whether or not commenced or completed prior to the Commencement Date and whether or not to be completed within the Term); water, sewer or other rents, rates and charges; excises; levies; license fees; permit fees; inspection fees and other authorization fees and other charges; in each case whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every character (including all interests and penalties thereon), which are attributable or applicable to any portion of the Term and may be assessed, levied, confirmed, or imposed on or in respect of, or be a lien upon (a) the Property or the Improvements, or any part thereof, or any estate, right, or interest therein, (b) any occupancy, use, or possession of or activity conducted on the Property or the Improvements, or any part thereof, or (c) this Ground Lease. The term “Impositions” shall also include any and all increases in the foregoing, whether foreseen or unforeseen, ordinary or extraordinary, including, without limitation, any increase in real property taxes resulting from a sale of the Property by Landlord.

“**Improvements**” means all buildings, structures and other improvements, including the building fixtures thereon, now located on the Property or hereafter constructed on the Property; all landscaping, fencing, walls, paving, curbing, drainage facilities, lighting, parking areas, roadways, and similar site improvements now located or hereafter placed upon the Property.

“**Landlord and Landlord Personnel**” means Landlord and their respective directors, officers, officials, members, employees, agents, representatives, and volunteers.

“**Loss**” has the meaning set forth in Section 9.8.

“**Maintenance Standards**” means those standards set forth in Article 10 hereof.

“**Memorandum of Ground Lease**” refers to the memorandum of ground lease which has been recorded as described in Section 1.4.

“**Mortgage**” has the meaning set forth in Section 15.1 of this Ground Lease. The term “Mortgage” shall include the deed of trust recorded in favor of _____ as the senior construction lender, _____, as construction loan [TO INSERT AT CLOSING] secured by Tenant’s leasehold interest in the Property.

“**Mortgagee**” has the meaning set forth in Section 15.1 of this Ground Lease and shall include the Mortgage in favor of construction lender .

“**Notices**” has the meaning set forth in Section 22.1.

“**Official Records**” has the meaning set forth in Section 1.4.

“Partnership Agreement” means the agreement which sets forth the terms of Tenant’s limited partnership, as such agreement may be amended from time to time.

“Plans” means the plans and specifications for the construction of the Project, a set of which, initialed by Tenant, are on file in the offices of Landlord.

“Project” has the meaning set forth in Recital D above and includes and all on-site improvements necessary to serve the development, all as more particularly described in the Agreement.

“Property” has the meaning set forth in Recital A above.

“Real Property Tax” has the meaning set forth in Section 4.4.3 of this Ground Lease.

“Rent” means the rent payable pursuant to Article 4 of this Ground Lease.

“Regulatory Agreement” has the meaning set forth in Recital C.

“TCAC” means the California Tax Credit Allocation Committee.

“Tenant Party” has the meaning given to it in Section 12.3.

“Term” has the meaning set forth in Article 3 of this Ground Lease.

“Transaction Documents” means, collectively, the Agreement (until such time as the Agreement, by its terms, terminates), and the Ground Lease.

ARTICLE 3. TERM.

The term of this Ground Lease (**“Term”**) shall commence on the date of recordation of the Memorandum of Ground Lease in the Official Records (**“Commencement Date”**) and, subject to the provisions set forth in this Ground Lease and applicable law that may result in an earlier termination of this Ground Lease, shall continue until the ninety-ninth (99th) anniversary of the Commencement Date.

ARTICLE 4. RENT.

4.1 Rent. On the Effective Date, Tenant shall pay to Landlord Base Rent.

4.2 Payment of Rent. All Rent that becomes due and payable pursuant to this Ground Lease shall be paid to Landlord at the address listed in Section 21.1 or such other place as Landlord may from time to time designate by written notice to Tenant without notice or demand, and without setoff, counterclaim, abatement, deferment, suspension or deduction. Except as expressly provided herein or in the Agreement, under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall Landlord be expected or required to make

any payment of any kind whatsoever or to perform any act or obligation whatsoever or be under any obligation or liability hereunder or with respect to the Property.

4.3 Utilities. Tenant shall be responsible for the payment of and shall establish accounts for all and each of water, gas, electricity, refuse collection and disposal, internet service, broadband coverage, and/or other communication system fees, and all other utilities or services used by Tenant on or at the Property. Landlord expressly has no obligation regarding provision of or payment for any utilities serving the Property.

4.4 Taxes and Assessments.

4.4.1 Notice of Possessory Interest; Payment of Taxes and Assessments on Value of Entire Property. In accordance with California Revenue and Taxation Code Section 107.6(a), Landlord notices Tenant that by entering into this Ground Lease, a possessory interest subject to assessment and collection of property taxes may be created. Tenant or other party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interest. If possessory interest taxes are assessed, Tenant agrees it is responsible for payment thereof and Landlord has no obligation or liability of any kind or nature relating to payment of property taxes. Tenant shall, at its sole cost and expense, seek exemption from, or contest the payment of, assessments and the collection of property taxes pursuant to Revenue and Taxation Code Section 214, or a successor statute. During the pendency of such contest or request for exemption, Tenant's non-payment of assessments or taxes when due shall not constitute a default hereunder if (i) the validity of such assessments and taxes is actively contested in good faith and by appropriate proceedings, (ii) Tenant has demonstrated to Landlord's reasonable satisfaction that leaving such assessments or taxes unpaid pending the outcome of such proceedings could not result in conveyance of the Property in satisfaction of such assessments or taxes or otherwise impair Landlord's estate in the Property, (iii) Tenant has furnished Landlord with a bond or other security satisfactory to Landlord in an amount not less than 100% of the applicable claim (including interest and penalties), and (iv) upon the final disposition of such proceedings, Tenant shall promptly pay all taxes and assessments then due, inclusive of any unpaid accrued penalties and interest. Landlord is a political subdivision of the State of California, and no property taxes will be or are legally assessable against its fee interest.

4.4.2 Payment of Taxes and Impositions. Subject to any applicable exemptions, Tenant is responsible for and shall pay the real property and/or possessory interest taxes and other Impositions applicable to the Property during the Term of this Ground Lease. Except as provided in Section 4.4.1, all such payments shall be made prior to the delinquency date of such payment. Tenant shall promptly furnish Landlord with satisfactory evidence that such taxes and Impositions have been paid or that an exemption from such taxes has been obtained. If any such taxes and Impositions paid by Tenant shall cover any period of time prior to or after the expiration of the Term, Tenant shall have sole responsibility for seeking any reimbursement due from the appropriate taxing entity. If Tenant fails to pay any such taxes or Impositions, Landlord shall have the right to pay the same, in which case Tenant shall repay such amount to Landlord within

ten (10) days after demand from Landlord together with interest at the rate set forth in Section 4.5.

4.4.3 Definition. As used herein, the term “**real property tax**” shall include any form of real estate tax or assessment (including, without limitation, on possessory interests), general, special, ordinary, or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income, or estate taxes) imposed on the Property or any interest (including, without limitation, possessory interests) therein by any authority having the direct or indirect power to tax, including any city, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord or Tenant in the Property or in the real property of which the Property are a part, as against Landlord’s right to rent or other income therefrom, and as against Landlord’s business of leasing the Property. The term “real property tax” shall also include any tax, fee, levy, assessment, or charge (i) in substitution of, partially or totally, any tax, fee, levy, assessment or charge hereinabove included within the definition of “real property tax,” or (ii) the nature of which was hereinbefore included within the definition of “real property tax,” or (iii) which is imposed as a result of a transfer, either partial or total, of Landlord’s interest in the Property or which is added to a tax or charge hereinbefore included within the definition of real property tax by reason of such transfer, or (iv) which is imposed by reason of this lease transaction, any modifications or changes hereto, or any transfers hereof.

4.4.4 Personal Property. Tenant shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment, and all other personal property of Tenant contained in the Property or elsewhere. When possible, Tenant shall cause said trade fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Landlord.

4.4.5 Apportionment. If any of Tenant’s said personal property shall be assessed with Landlord’s real property, first Tenant shall advise the County of San Mateo Tax Assessor and Tax Collector of the same in writing, and Tenant shall pay Landlord the taxes attributable to Tenant not later than the later of (a) ten (10) days after receipt of a written statement setting forth the taxes applicable to Tenant’s property, or (b) thirty (30) days prior to the date said taxes are due and payable.

4.5 Overdue Interest. Any amount due to Landlord, if not paid when due and on or before expiration of the period for cure as set forth herein, after Landlord’s delivery of notice thereof to Tenant, shall bear interest from the date due until paid at the lower of: (a) the reference or prime rate of Bank of America, N.T. & S.A., in effect from time to time plus three percent (3%); or (b) the highest rate of interest allowed under applicable usury law.

4.6 Right to Audit. Tenant shall keep full and accurate books of account, records, and other pertinent data with respect to operations of the Project. Such books of account, records, and other pertinent data shall be kept for at least five (5) years. At any time,

Landlord shall be entitled to examine and conduct an independent audit of all of Tenant's books of account, records, and other pertinent data for the prior three (3) years.

ARTICLE 5. POSSESSION OF PROPERTY.

5.1 Acceptance of Premises. As further described in Section 6.3, Tenant hereby accepts the Property as-is and acknowledges that the Property is in the condition called for by the Agreement and this Ground Lease.

5.2 Ownership of Improvements. Unless otherwise provided herein, during the Term of this Ground Lease, as it may be extended pursuant to the terms hereof, title to all Improvements, now existing or later made, on the Property are and shall be vested in Tenant as set forth in Article 11 hereof.

5.3 Surrender of Property.

5.3.1 Expiration or Termination. Tenant agrees that on the expiration or earlier termination of the Term, the leasehold estate hereby granted to Tenant shall terminate unless extended by mutual agreement of Landlord and Tenant. Upon such termination, the leasehold estate shall be forfeited and shall revert to Landlord, its successors and assigns, and all Improvements on the Property shall become the property of Landlord, its successors and assigns, free and clear from any liens or claims whatsoever (other than non-monetary liens previously approved or otherwise accepted in writing by Landlord), in good condition and repair and in compliance with the Maintenance Standards described in Section 10, reasonable wear and tear excepted, without further compensation therefor from Landlord to Tenant or any other person. Following any such expiration or termination, Tenant shall execute, acknowledge and deliver to Landlord a quitclaim deed, or other document required by a reputable title company and reasonably acceptable to Landlord, conveying all Tenant's right, title, and interest in and to the Property and the Improvements to Landlord. In the event Tenant receives a written default notice relating to or arising from any Construction Loan, Take-Out Loan, or any mortgage, deed of trust, or security instrument secured by the leasehold interest granted hereunder, the Property or the Improvements, or from HCD, the California Debt Limit Allocation Committee, the Internal Revenue Service, or any other agency or entity that provided any form of financing to the Project, then Tenant shall provide written notice of such alleged default to the Director within five (5) days of receipt thereof. Tenant hereby irrevocably appoints Landlord as Tenant's agent and attorney-in-fact (such agency being coupled with an interest), and as such agent and attorney-in-fact Landlord may, without the obligation to do so, in Tenant's name, or in the name of Landlord, prepare, execute and file or record such statements, applications, and other documents necessary to create, perfect, or preserve any of Landlord's interests and rights in or to the Property and any of the Improvements, and, upon the expiration or earlier termination of the Term, take any other action required of Tenant.

5.3.2 Condition. On expiration or earlier termination of the Term and in furtherance of the provisions relating to surrender of the Property set forth in Section 5.3.1 above, Tenant shall peaceably and quietly leave and surrender the Property and the

Improvements to Landlord in good order, condition, and repair and in compliance with the Maintenance Standards, reasonable wear and tear excepted, free of debris, waste and Hazardous Materials. Tenant shall leave in place and in good order, condition, and repair, all fixtures and machinery; except (if Tenant is not then in default under this Ground Lease) Tenant shall have the right to remove only Tenant-owned appliances, other unattached equipment, furniture and merchandise, to the extent installed by Tenant, which removal must be done without damage to the Property or Improvements. Tenant shall remove any such appliances, unattached equipment, furniture and merchandise prior to expiration or termination of the Term. Landlord shall have the right to have the Property and the Improvements inspected at Tenant's cost to determine whether the Property and the Improvements have been properly maintained, repaired, and restored in accordance with the Maintenance Standards and the terms of this Ground Lease. If it is determined by Landlord that, at the expiration or earlier termination of this Ground Lease, the condition of all or any portion of the Property is not in compliance with the Maintenance Standards or other provisions of this Ground Lease, including, without limitation, those contained in Article 12 with respect to Hazardous Materials, then Landlord may elect to either (i) require Tenant to hold over possession of the Property until Tenant can surrender the Property to Landlord in the condition required herein, or (ii) undertake the required work to place the Property in the condition required under this Ground Lease and Tenant shall immediately reimburse Landlord for all such costs upon demand from Landlord.

5.3.3 Delivery of Documents. Contemporaneous with the expiration or earlier termination of the Term, as it may be extended pursuant to the terms hereof, and subject to the provisions of Sections 5.3.1 and 5.3.2 hereof, Tenant shall immediately deliver to Landlord, at Tenant's sole cost, the following:

(a) Such documents, instruments, and conveyances as Landlord may reasonably request to enable Landlord's ownership of the Property and the Improvements to be reflected of record, including, without limitation, a quitclaim deed in recordable form to the Property and the Improvements.

(b) An owner's policy of title insurance, surety bond, or other security reasonably acceptable to Landlord insuring against all claims and liens against the Property and the Improvements other than those incurred by Landlord or accepted by Landlord in writing.

(c) All construction plans, surveys, permits, existing contracts for services, maintenance, operation, and any other documents relating to use, operation, management, and maintenance of the Improvements as may be in effect and/or in the possession of Tenant at the time and from time to time thereafter.

(d) All documents and instruments required to be delivered by Tenant to Landlord pursuant to this Section shall be in form reasonably satisfactory to Landlord, including without limitation such documents and instruments shall be complete, originals or true copies, and legible.

5.4 Abandonment. Tenant shall not abandon or vacate the Property or the Improvements at any time during the Term. If Tenant shall abandon, vacate, or otherwise surrender the Property or the Improvements, or be dispossessed (other than dispossession as the result of condemnation, which shall be subject to Section 20.1 below) thereof by process of law or otherwise, the same shall constitute a default under this Ground Lease on the part of Tenant and, in addition to any other remedy available on the part of Landlord, (i) Landlord may relet the Property and Tenant shall be responsible for all of Landlord's costs in connection therewith, including without limitation Landlord's attorneys' fees, and (ii) any of Tenant's property left in, upon or about the Property or the Improvements (except for underground storage tanks) shall, at Landlord's option, be deemed to be abandoned and shall become the property of Landlord. The appointment of a receiver pursuant to a Mortgagee's exercise of its rights under a Mortgage, or the foreclosure of a Mortgage, shall not be a default under this Section.

ARTICLE 6. REPRESENTATIONS AND WARRANTIES.

6.1 Landlord's Representations. Landlord represents and warrants to Tenant it owns the Property in fee simple and has the power and authority to enter into this Ground Lease and perform all obligations and agreements incidental or pertinent to this Ground Lease. Landlord makes no representation or warranty with respect to the condition of the Property or its fitness or availability for any particular use, and Landlord shall not be liable for any latent or patent defect therein. Landlord represents and warrants to Tenant as follows:

(A) Landlord. Landlord is a political subdivision of the State of California. The execution, performance, and delivery of this Ground Lease by Landlord has been fully authorized by all requisite actions on the part of Landlord.

(B) No Conflict. To Landlord's actual, present knowledge, Landlord's execution, delivery and performance of its obligations under this Ground Lease will not constitute a default or a breach under any contract, agreement, or order to which Landlord is a party or by which it is bound.

(C) No Landlord Bankruptcy. Landlord is not the subject of a bankruptcy proceeding.

As used herein, "Landlord's knowledge" shall be limited to the actual knowledge of Director, with no duty of inquiry or investigation.

6.2 Tenant's Representations. Tenant represents and warrants to Landlord as follows:

(A) Tenant. Tenant is a duly organized limited partnership formed within and in good standing under the laws of the State of California. Upon request by Landlord or a title company, Tenant shall deliver to Landlord and the title company true and complete copies of the original documents evidencing the organization of Tenant, as amended to the date of this Ground Lease. Tenant has full right, power and lawful

authority to undertake all obligations as provided herein and the execution, performance and delivery of this Ground Lease by Tenant have been fully authorized by all requisite actions on the part of Tenant.

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

(C) No Tenant Bankruptcy. Tenant is not the subject of a bankruptcy proceeding.

Tenant shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section not to be true, immediately give written notice of such fact or condition to Landlord.

6.3 AS-IS; Release. Tenant acknowledges and agrees that Tenant is leasing the Property from Landlord solely in reliance on its own investigation, and that no representations and/or warranties of any kind whatsoever, express or implied, have been made by any of the Indemnitees.

AS A MATERIAL PART OF THE CONSIDERATION FOR LANDLORD'S AGREEMENT TO LEASE THE PROPERTY TO TENANT, TENANT AGREES TO ACCEPT THE PROPERTY "AS IS" AND "WHERE IS", WITH ALL FAULTS. SUBJECT TO APPLICABLE CALIFORNIA LAW, NO WARRANTY OR REPRESENTATION IS MADE BY LANDLORD WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO (I) FITNESS FOR ANY PARTICULAR PURPOSE, (II) MERCHANTABILITY, (III) CONDITION, (IV) ABSENCE OF DEFECTS OR FAULTS, (V) ABSENCE OF HAZARDOUS OR TOXIC SUBSTANCES, (VI) FLOODING, OR (VII) COMPLIANCE WITH LAWS AND REGULATIONS, INCLUDING, WITHOUT LIMITATION, LAWS AND REGULATIONS RELATING TO HEALTH, SAFETY, AND THE ENVIRONMENT, AS THEY MAY APPLY TO THE CURRENT CONDITION OF THE PROPERTY OR TENANT'S INTENDED DEVELOPMENT OR PROJECT, CONSTRUCTION OR USE, OR FOR ANY OTHER PURPOSE. TENANT ACKNOWLEDGES THAT TENANT WILL BE RELYING UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC USE, TITLE, COMPLIANCE AND LEGAL CONDITION OF THE PROPERTY.

On and after the Effective Date, Tenant will be deemed to have waived and released Indemnitees of and from any and all claims, causes of action, damages or losses that may be incurred by Tenant concerning the condition of the Property, whether known or unknown as of the Effective Date. Such waiver will be deemed to be a release of all rights held by Tenant under California Civil Code §1542, which states:

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.

Tenant Initials _____

This Section 6.3 shall survive termination of the Agreement.

ARTICLE 7. CONSTRUCTION OF THE IMPROVEMENTS.

7.1 Construction. Tenant shall construct the Improvements within the times and subject to all of the terms and conditions set forth in the Agreement, the Regulatory Agreement and this Ground Lease and in accordance with plans and specifications, including the Final Construction Documents (as defined in the Ground Lease) (collectively, "**Plans**") approved by Landlord. All Improvements shall be constructed in a good and workmanlike manner using materials of good quality, and shall comply with all applicable Governmental Requirements. Tenant shall keep the Property and its leasehold interest free of all liens arising out of any work performed, materials or services furnished, or obligations incurred by Tenant or any of its contractors or agents.

7.2 Construction Cost. Tenant and not Landlord shall bear the entire and sole cost of planning, designing, engineering, entitling, permitting, financing, constructing, supervising, and inspecting the Improvements, including all fees, costs, assessments and mitigation measures arising from or related thereto.

7.3 Landlord's Right to Discharge Lien. If Tenant does not, within forty-five (45) days of obtaining knowledge of a lien, cause to be recorded the bond described in California Civil Code Section 3143 or otherwise protect the Property or Tenant's leasehold interest under any alternative or successor statute and in a manner reasonably acceptable to Landlord, Landlord shall have the right, but not the duty, subject to the notice and cure rights of Mortgagees set forth elsewhere in this Ground Lease, to pay or otherwise discharge, stay, or prevent the execution of any such judgment or lien or both. Tenant shall reimburse Landlord for all sums paid by Landlord under this Section, together with all Landlord's reasonable attorneys' fees and costs, plus interest on those sums, fees, and costs from the date of payment until the date of reimbursement at the rate set forth in Section 4.5.

7.4 Notice of Non-Responsibility. After the filing of a notice of completion pursuant to Section 7.5, Tenant shall provide Landlord with prior written notice of not less than thirty (30) days before commencing construction of any structural alteration of the Improvements, or any non-structural alteration which will cost more than One Hundred Thousand Dollars (\$100,000), and shall permit Landlord to record and post appropriate notices of non-responsibility on the Property. This One Hundred Thousand Dollar (\$100,000) limitation shall be recalculated each calendar year after the calendar year in which the final COO is issued by applying the CPI Adjustment to the \$100,000 limitation.

7.5 Notice of Completion. Promptly after completion of construction of the Improvements, Tenant shall file or cause to be filed a notice of completion. Tenant hereby appoints Landlord as Tenant's attorney-in-fact to file the notice of completion, at Tenant's cost and expense, if Tenant fails to do so.

7.6 Subsequent Alterations. Following completion of the construction of the Improvements in accordance with the Plans, Tenant may from time to time, at its sole expense, make improvements and other alterations to the Property which Tenant reasonably determines to be beneficial, subject to compliance with all applicable Governmental Requirements and with no obligation on Landlord's part to allow any variances or deviations from the Land Use Entitlements or the Scope of Development. As used in this Section, the terms "**alterations**" and "**improvements**" shall not apply to repairs of existing improvements. Notwithstanding the foregoing, any improvement which will cost more than One Hundred Thousand Dollars (\$100,000) shall require the approval of Landlord, which shall not be unreasonably withheld or delayed.

ARTICLE 8. USE OF THE PROPERTY.

8.1 Covenants Regarding Affordability, Occupancy, and Unit Mix.

8.1.1 Affordability. Tenant covenants and agrees for itself, its successors, assigns, and every successor in interest to Tenant's interest in the Property or any part thereof, that Tenant shall comply during the Term of this Ground Lease with the Affordability Restrictions which specifically means that ten (10) dwelling units in the Project shall be rented to households whose incomes do not exceed thirty percent (30%) of the area median income for San Mateo, adjusted for household size, as published by HUD ("**Adjusted AMI**"), and (ii) twenty-nine (29) of the dwelling units in the Project shall be rented to households whose incomes do not exceed fifty percent (50%) of the Adjusted AMI, with all of such dwelling units rented at an affordable rent, pursuant to TCAC regulations. The Affordability Restrictions described above and Tenant's obligation to comply therewith shall be evidence in the Regulatory Agreement, which shall be recorded as an encumbrance on the Property.

8.1.2 Unit Mix. The Project will contain three (3) studio units, thirty-four (34) 1-bedroom units, and three (3) 2-bedroom units. One 2-bedroom unit will be a manager's unit and not subject to Affordability restrictions.

8.1.3 Occupancy. Tenant covenants and agrees for itself, its successors, assigns, and every successor in interest to Tenant's interest in the Property or any part thereof that, except as otherwise required by federal, state, or local law or any Project funding source:

(a) Such with exception of the one manager's unit, the head of household for each unit must be a senior aged 55 years or older and be a current or retired agricultural worker living in the City of Half Moon Bay or San Mateo County, and shall be selected based on the preference program described in Section 8.5, below.

(b) household members in addition to the head of household shall be limited to persons who are 45 years of age or older, or are the spouse, or person providing primary physical or economic support to the senior; including hired healthcare workers. Children (i.e., persons under the age of 18) may occupy a unit only in the event that the child is disabled and is the child or grandchild of the senior and needs to live with the senior because of the disabling condition.

(c) if the senior head of household in a unit dies or permanently relocated to another residence or care facility, the other qualified residents of the units will be allowed to continue to reside in the unit for one (1) year but live-in health care aids must vacate the unit within ninety (90) days.

(d) occupancy in the Project shall be limited to 2 persons maximum per studio and 1-bedroom unit, and 4 persons maximum per 2-bedroom unit. Landlord is imposing these occupancy limits in compliance with HUD's two person per sleeping area standard in order to (1) provide the senior community that reside in the Project with a quieter home environment free of overcrowding in order to prevent accidents/falls and to promote physical recovery and mental health; and (2) alleviate demands on available parking given that the Project provides limited on site parking; and (3) prevent wear and tear of publicly funded housing.

8.1.4 Covenants Running With the Land. The foregoing covenants in this Section 8.1 shall run with the land for the duration of the Term.

8.2 Annual Reporting. Tenant will provide Landlord with an annual report to confirm that the above requirements for Affordability and Occupancy are being fulfilled. Landlord may rely on reports produced by Tenant to fulfill Project funding source reporting requirements, if applicable.

8.3 Covenant to Pay Taxes and Assessments. Tenant shall pay prior to delinquency all ad valorem real estate taxes, special taxes, assessments and special assessments levied against the Property, subject to Tenant's right to contest any such tax in good faith and any property tax exemptions.

8.4 Covenants Regarding Nondiscrimination. Tenant 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 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, or any part thereof, nor shall Tenant, 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 Property, or any part thereof. The foregoing covenants shall run with the land for the duration of the Term.

Tenant agrees for itself and any successor in interest that Tenant shall refrain from restricting the rental, sale, or lease of any portion of the Property, or contracts relating to the Property, on the basis of race, color, creed, religion, sex, marital status, ancestry, or national origin of any person. All such deeds, leases, or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(A) In deeds: “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.”

(B) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: “That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the 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.”

(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 which are the subject of this agreement, 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, Tenants, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

Notwithstanding the foregoing, Tenant acknowledges and agrees that it shall have no right to sell or transfer all or any portion of the fee interest in the Property or Project and

that Tenant's only rights with respect to the Property and Project shall arise under this Ground Lease as a tenant.

8.5 Preference Program. Except to the extent prohibited by applicable federal or state law or any Project funding sources, Tenant shall evaluate applications for residential tenancies on the Property and offer tenancies to applicants according to the preferences and procedures described below and as established in an ordinance or resolution adopted by the City Council, as the same may be amended from time to time.

When the units are constructed and ready for occupancy, Tenant will create an application process that will result in a pool of applicants. The pool of applicants to be sorted according to this preference order for the head of household:

1. **"First Preference":** Prospective senior resident is a current or retired agricultural worker who lives or works in Half Moon Bay.
2. **"Second Preference":** Prospective senior resident is a current or retired agricultural worker who lives or works in the Coastside of San Mateo County: Pacifica, Montara, Moss Beach, San Gregorio, El Granada or Pescadero.
3. **"Third Preference":** Prospective senior resident is a current or retired agricultural worker who lives or works in County of San Mateo.

Tenant will screen all applicants who meet the criteria for the First Preference and household income restrictions, and those applicants will be offered units first. After all First Preference applications are exhausted and if there are any vacant units to fill, Tenant will screen applicants who meet the criteria for the Second Preference and household income restrictions and offer those eligible applicants any remaining units. After all Second Preference applications are exhausted and if there are any remaining vacant units, Tenant will screen applicants who meet the criteria for the Third Preference and household income restrictions and offer those eligible applications any remaining units.

The covenants established in this Ground Lease and the Regulatory Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of Landlord, its successors and assigns, Landlord and any successor in interest to the Property. The covenants against discrimination shall remain in effect in perpetuity.

ARTICLE 9. INSURANCE.

9.1 Tenant's Insurance. Without limiting Landlord's right to indemnification, Tenant shall secure and maintain insurance coverage as set forth in this Article 9.

9.2 Commercial General and Automobile Liability; Worker's Compensation. Commencing on the Effective Date and continuing throughout the Term of this Ground Lease, Tenant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to Landlord's Director, the following policies of insurance:

(A) Commercial General Liability Insurance covering bodily injury, property damage, personal injury, and advertising injury written on an occurrence basis with coverage at least as broad as Insurance Services Office (ISO) form CG 00 01, containing the following minimum limits: (i) general aggregate limit (including excess coverage) of Ten Million Dollars (\$10,000,000.00); (ii) products-completed operations aggregate limit of Three Million Dollars (\$3,000,000.00); (iii) personal and advertising injury limit of Three Million Dollars (\$3,000,000.00); and (iv) each occurrence limit of Three Million Dollars (\$3,000,000.00). Said policy shall include the following coverages: (I) products and completed operations; (II) independent contractors; (III) Owner's broad form property damage; (IV) severability of interest; (V) cross liability; and (VI) property damage liability arising out of the so-called "XCU" hazards (explosion, collapse and underground hazards). The policy shall be endorsed to have the general aggregate apply to this Project only.

(B) A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure, and provide legal defense for Landlord and Tenant against any loss, claim, or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by Tenant in the course of carrying out the work or services contemplated in this Ground Lease, and Employers Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) combined single limit for all damages arising from each accident or occupational disease.

(C) A policy of comprehensive automobile liability insurance written on an occurrence basis using ISO Business Automobile Coverage form CA 00 01 (or equivalent), in an amount not less than Two Million Dollars (\$2,000,000.00) each accident covering all owned, non-owned, leased, and hired vehicles used in connection with the Work; provided, however, that if Tenant does not own vehicles it may satisfy this provision through a rider to its general liability coverage for non-owned/hired vehicles.

9.3 Builders Risk. Commencing on the Effective Date and continuing until Landlord issues a temporary Certificate of Occupancy, Tenant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to Landlord's Director, Builder's Risk (course of construction) insurance coverage in an amount equal to the full cost of the hard construction costs of the Project. Such insurance shall cover, at a minimum: all work, materials, and equipment to be incorporated into the Project; the Project during construction; the completed Project until such time as the City of Half Moon Bay issues a temporary Certificate of Occupancy, and storage and transportation risks. Such insurance shall protect/insure the interests of Tenant/owner and all of Tenant's contractor(s), and subcontractors, as each of their interests may appear. If such insurance includes an exclusion for "design error," such exclusion shall only be for the object or portion which failed. Landlord shall be a loss payee under such policy or policies and such insurance shall contain a replacement cost endorsement.

9.4 Property; Business Interruption; Boiler and Machinery Insurance. Commencing on the date Landlord issues a temporary Certificate of Occupancy and continuing throughout the term of this Ground Lease, Tenant shall procure and maintain,

at its sole cost and expense, in a form and content satisfactory to the Director, the following insurance:

(A) Insurance against fire, extended coverage, vandalism, and malicious mischief, and such other additional perils, hazards, and risks as now are or may be included in the standard "all risk" form in general use in San Mateo County, California, with the standard form fire insurance coverage in an amount equal to full actual replacement cost thereof, as the same may change from time to time. Landlord shall be a loss payee under such policy or policies and such insurance shall contain a replacement cost endorsement.

(B) Business interruption and extra expense insurance to protect Tenant and Landlord covering loss of revenues and/or extra expense incurred by reason of the total or partial suspension or delay of, or interruption in, the operation of the Project caused by loss or damage to, or destruction of, any part of the insurable real property structures or equipment as a result of the perils insured against under the all risk physical damage insurance, covering a period of suspension, delay, or interruption of at least twelve (12) months, in an amount not less than the amount required to cover such business interruption and/or extra expense loss during such period.

(C) Boiler and machinery insurance in the aggregate amount of the full replacement value of the equipment typically covered by such insurance.

9.5 Contractor Insurance Requirements. Tenant shall cause any general contractor with whom it has contracted for the performance of work on the Property to secure and maintain insurance that satisfies all of the requirements of Section 9.2 and Section 9.6 prior to the general contractor commencing any activities on the Property.

9.6 Additional Requirements. The following additional requirements shall apply to all of the above policies of insurance:

(A) All of the above policies of insurance shall allow and be endorsed primary insurance, except the Worker's Compensation, Employer Liability insurance. The commercial general liability and automobile liability insurance, shall be endorsed to name all of Landlord and Landlord Personnel as additional insureds. The commercial general liability shall be endorsed on an ISO Form CG 20 10 for ongoing operations and CG 20 37 for completed operations (current version) or equivalent forms. Tenant waives its right to recover against Landlord and all Landlord Parties and their respective insurers for all claims and losses covered by the insurance policies required by this Ground Lease, and shall cause its insurers to waive all rights of subrogation and contribution it may have against Landlord and Landlord Personnel and their respective insurers and shall provide an endorsement affecting such. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days' prior written notice to Landlord. If a carrier will not provide the required notice of cancellation, the Tenant shall provide written notice to the Landlord of a cancellation no later than ten (10) business days before cancellation. In the event any of said policies of insurance are cancelled, Tenant shall, prior to the cancellation date, submit new evidence of insurance

in conformance with this Section to the Director. Not later than the Effective Date, Tenant shall provide the Director with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders shall be subject to the reasonable approval of the Director.

(B) The policies of insurance required by this Ground Lease shall be satisfactory only if issued by companies of recognized good standing authorized to do business in California, rated "A-" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Director due to unique circumstances.

(C) The Director is hereby authorized to increase, reduce, or otherwise modify Tenant's insurance requirements set forth herein in the event he or she determines, in his or her sole and absolute discretion, that such increase, reduction, or modification is warranted by changes in construction costs, inflationary changes after the Effective Date, or otherwise, and is consistent with reasonable commercial practices.

(D) Any available insurance proceeds broader than, or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum insurance requirements are sufficient to cover the obligations of the Tenant.

(E) Tenant agrees that the provisions of this Section shall not be construed as limiting in any way Landlord's right to indemnification or the extent to which Tenant may be held responsible for the payment of damages to any persons or property resulting from Tenant's activities or the activities of any person or persons for which Tenant is otherwise responsible.

9.7 Remedies for Defaults Re: Insurance. In addition to any other remedies Landlord may have if Tenant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, Landlord may, at its sole option, after fifteen (15) days' Notice to Tenant:

(A) Obtain such insurance and charge Tenant the amount of the premium for such insurance, in which event Tenant shall promptly remit such sum to Landlord;

(B) Withhold any payment(s) which become due to Tenant hereunder until Tenant demonstrates compliance with the requirements hereof; and

(C) Declare Tenant in Default and exercise its rights and remedies under this Ground Lease.

Exercise of any of the above remedies, however, is an alternative to other remedies Landlord may have and is not the exclusive remedy for Tenant's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which Tenant may be held responsible for payment of damages to persons or property resulting from Tenant's contractors or any subcontractor's performance under this Ground Lease.

9.8 Indemnification. Tenant shall defend (with counsel acceptable to Landlord), indemnify, assume all responsibility for, and hold Landlord and Landlord Personnel harmless from, all claims, demands, damages, defense costs (including attorneys' fees and costs) and liability of any kind or nature (any of the foregoing, a "**Loss**") arising out of or in connection with Tenant's failure to perform any obligation or requirement under this Ground Lease or the Regulatory Agreement and/or any activities, occupancy, access, acts, errors, omissions, performance, work and the like under or in connection with this Ground Lease, whether such activities, performance or the like thereof be by Tenant or by anyone directly or indirectly employed, controlled, or contracted by Tenant and whether such damage shall accrue or be discovered before or after termination of this Ground Lease, including but not limited to any damages to property or injuries to persons, including accidental death, to the extent arising out of or in connection with any of the foregoing. Tenant shall not be liable for any such Loss or indemnification therefore to the extent occasioned by the gross negligence or willful misconduct of any of Landlord and Landlord Personnel.

ARTICLE 10. MAINTENANCE; REPAIRS

Tenant shall, throughout the entire Term of this Ground Lease, maintain the Property and all improvements thereon, including, without limitation, lighting and signage, in good condition and repair, free of debris, waste, and graffiti, and in compliance with all applicable laws and regulations. Tenant shall maintain the Improvements and landscaping on the Property strictly in accordance with the Maintenance Standards (defined below). Such Maintenance Standards shall apply to all buildings, walls, systems, electrical, plumbing, HVAC, water/sewer, signage, lighting, roof, landscaping, irrigation of landscaping, architectural elements of the Property, and any and all other Improvements on the Property. To accomplish the maintenance, Tenant shall either staff or contract with and hire licensed and qualified personnel to perform all such work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Ground Lease.

Tenant and its maintenance staff, contractors, consultants, agents or subcontractors shall comply with the following standards ("**Maintenance Standards**"):

(A) The Property, including, without limitation, all buildings, walls systems, electrical, plumbing, HVAC, water/sewer, signage, lighting, roof, landscaping, irrigation of landscaping, architectural elements of the Property, and any and all other Improvements on the Property, shall be maintained in conformance and in compliance

with the approved Plans and permits, and reasonable maintenance standards for similar, neighboring structures, including but not limited to painting and cleaning of all exterior surfaces and other exterior facades comprising all private improvements and public improvements to the curb line. The Property shall be maintained in good condition and repair and in accordance with the custom and practice generally applicable to comparable market-rate apartment complexes located in San Mateo County.

(B) Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

(C) Clean-up maintenance shall include, but not be limited to: regular maintenance of all sidewalks, paths and other paved areas in a clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris, or other matter which is unsafe or unsightly; removal of all graffiti, trash, litter, and other debris from improvements; removal of all trash, litter, and other debris from landscaping prior to mowing; and clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves, and other debris are properly disposed of by maintenance workers.

Upon Landlord's written notification to Tenant of any maintenance deficiency, Tenant shall have thirty (30) days within which to correct, remedy, or cure the deficiency, or such longer period as is reasonably necessary to complete the cure (not to exceed ninety (90) days), provided such correction, remedy, or cure is commenced within such thirty (30) day period and diligently prosecuted to completion. If the written notification states the problem is urgent relating to the public health and safety of Landlord, then Tenant shall have three (3) business days to rectify the problem, or such longer period as is reasonably necessary to complete the cure (not to exceed ten (10) business days). In the event Tenant does not maintain the Property in the manner set forth herein and in accordance with the Maintenance Standards (as determined by Landlord), Landlord shall have, in addition to any other rights and remedies hereunder, the right to maintain the Property, or to contract for the correction of such deficiencies, after Notice to Tenant, and Tenant shall be responsible for the payment of all such costs incurred by Landlord within thirty (30) days of Landlord's demand for payment.

ARTICLE 11. OWNERSHIP OF AND RESPONSIBILITY FOR IMPROVEMENTS.

11.1 Ownership During Term.

11.1.1 Improvements. Subject to the provisions of Sections 5.3.1 and 5.3.2 hereof, all Improvements on the Property as permitted or required by this Ground Lease shall, during the Term, be and remain the property of Tenant, and Landlord shall not have title thereto. Tenant shall not, however, demolish, remove, sell, encumber,

lease, assign, or otherwise convey any Improvements from the Property except as permitted herein.

11.1.2 Personal Property. All personal property, furnishings, fixtures and equipment, including, without limitation, Tenant-owned appliances, which are not so affixed to the Property or the buildings thereon as to require substantial damage to the buildings upon removal thereof shall constitute personal property. If Tenant is not then in default under this Ground Lease, at any time during the Term and at termination thereof, Tenant shall have the right to remove any and all such personal property, furnishings, fixtures and equipment; provided, that Tenant repairs any damage to the Property or the Improvements caused by such removal.

11.1.3 Basic Building Systems. For purposes of this Ground Lease, the personal property, furnishings, fixtures and equipment described in this Section 11.1 shall not include those major building components or fixtures necessary for operation of the basic building systems such as, but not limited to, the elevators, plumbing, sanitary fixtures, lighting fixtures, electrical fixtures, and the heating and central air-cooling systems.

11.2 Ownership at Expiration or Termination.

11.2.1 Property of Landlord. In accordance with provisions of Sections 5.3.1 and 5.3.2 hereof, and except as provided in Section 11.2.2, all Improvements which constitute or are a part of the Property shall, upon termination of this Ground Lease, become (without the payment of compensation to Tenant or others) the property of Landlord free and clear of all claims and encumbrances on such Improvements by Tenant, and anyone claiming under or through Tenant, except for such title exceptions permitted or required during the Term with Landlord's prior written consent. Tenant shall then quitclaim to Landlord any and all rights, interests and claims to the Improvements. Tenant agrees to and shall defend (with counsel acceptable to Landlord), indemnify, and hold Landlord harmless from and against all claims, liability, and loss which may arise from the assertion of any such claims and any encumbrances on such Improvements (except to the extent such claims arise due to Landlord's gross negligence or intentional misconduct) and except for such title exceptions permitted or required during the Term and approved in advance and in writing by Landlord.

11.2.2 Surrender by Tenant. Tenant shall not be required or permitted to remove the Improvements, or any of them, at the expiration or sooner termination of the Term; provided, however, that, subject to the provisions of Section 5.3.2 hereof, within thirty (30) days following the expiration or sooner termination of the Term, Tenant shall remove all personal property, furniture, and equipment. Tenant will surrender to Landlord the Project in good order, condition, and repair (except for ordinary wear and tear). Ordinary wear and tear will not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease.

11.2.3 Unremoved Property. Any personal property, furnishings or equipment not removed by Tenant pursuant to Section 11.2.2 hereof, shall, without compensation to Tenant, become Landlords' property, free and clear of all claims to or against them by Tenant or any third person, firm or entity arising by, through or under Tenant. Landlord shall have no duty to store such items, provide any notices to Tenant, sell or dispose of such items, and/or remit any proceeds from any such sale or disposal to Tenant in accordance with otherwise applicable statutory procedures, and Tenant hereby waives any statutory or other right Tenant might have with respect thereto.

11.2.4 Maintenance and Repair of Improvements. Subject to the provisions of this Ground Lease concerning condemnation, alterations, repair, damage, and destruction, Tenant agrees to assume full responsibility for the operation, repair and maintenance of the Property and the Improvements and all fixtures and furnishings thereon or therein throughout the Term hereof without expense to Landlord, and to perform all repairs and replacements necessary to maintain and preserve the Property, the Improvements, fixtures, and furnishings in a decent, safe, sanitary and operational condition consistent with good practices and in compliance with all applicable laws. Tenant agrees that Landlord shall not be required to perform any maintenance, repairs, or services, or to assume any expense in connection with the Property and the Improvements thereon unless specifically required under the terms of this Ground Lease. Except as otherwise provided in this Section 11.2 and in Section 11.4, the condition of the Improvements required to be maintained hereunder upon completion of the work of maintenance or repair shall be equal or better in quality and use to the condition of such Improvements before the event giving rise to the work.

11.3 Waste. Subject to the alteration rights of Tenant set out in this Ground Lease and damage, destruction, or condemnation of the Property or any part thereof as further described herein, Tenant shall not commit or suffer to be committed any waste of the Property or the Improvements, or any part thereof. Tenant agrees at all times to keep the Property and the Improvements clean and clear of graffiti, refuse, and obstructions, to store all garbage, trash, and rubbish in a safe and sanitary manner, and to promptly and properly dispose of all garbage, trash, and rubbish.

11.4 Alteration of Improvements. Except as provided in Section 7.1, Tenant shall not make or permit to be made any material exterior alteration of, addition to or change in, the Improvements which would affect the exterior elevations (including materials selection and color) or the size, bulk, and scale of the Property, other than routine maintenance and repairs, nor demolish all or any part of the Improvements, without the prior written consent of Landlord, which consent Landlord may withhold in its reasonable discretion. Nothing herein shall prohibit interior alterations or decorations, or the removal and replacement of interior improvements consistent with the specified use of the Property. In requesting consent for such exterior improvements as required by the foregoing, Tenant shall submit to Landlord detailed plans and specifications of the proposed work and an explanation of the need and reasons thereof. Tenant may make such other improvements, alterations, additions or changes to the Improvements which do not materially affect the exterior elevations (including materials selection and color) or the size, bulk, and scale thereof without Landlord's prior written consent, which consent

Landlord may withhold in its sole and absolute discretion, and provided that Tenant has obtained all required governmental permits and approvals therefor and such improvements, alterations, additions, or changes comply with applicable laws.

Notwithstanding the prohibition in this Section 11.4, Tenant may make such changes, repairs, alterations, improvements, renewals or replacements to the exterior elevations, materials, size, bulk, or scale of the Improvements as are required (a) by reason of any law, ordinance, regulation, or order of a competent government authority, or (b) to continue to receive any government funding that may be available to the Project.

ARTICLE 12. HAZARDOUS MATERIALS

12.1 Definitions of “Hazardous Materials”, “Environmental Laws” and “Hazardous Materials Activity.”

(A) Hazardous Materials. The term “**Hazardous Materials**” is defined in Article 2.

(B) Environmental Laws. The term “**Environmental Laws**” means any and all present and future federal, state and local laws (whether under common law, statute, rule, regulation or otherwise), court or administrative orders or decrees, requirements of permits issued with respect thereto, and other requirements of governmental authorities relating to the environment, health or safety, or to any Hazardous Materials or Hazardous Materials Activity (defined below).

(C) Hazardous Materials Activity. The term “**Hazardous Materials Activity**” means any actual, proposed or threatened storage, holding, existence or suspected existence, release or suspected release, emission, discharge, generation, processing, abatement, removal, disposition, handling or transportation of any Hazardous Materials from, under, into, on, or across the Project, Improvements, or surrounding property, or any other use of or operation on the Project, Improvements, or surrounding property that creates a risk of Hazardous Materials contamination of the Project or Improvements thereon.

12.2 Tenant’s Covenants. Tenant shall: (i) comply with all applicable Environmental Laws; (ii) not engage in, permit or acquiesce to any Hazardous Materials Activity on, under, over, or about the Property, Project or the Improvements thereon, except in strict accordance with all Environmental Laws, and all applicable best practices, (iii) promptly advise Landlord in writing of (1) the receipt by Tenant of notice of any and all Hazardous Materials claims or Hazardous Materials Activity, (2) any knowledge by Tenant of any Hazardous Materials claim or Hazardous Materials Activity related to the Property, Project or the Improvements thereon, (3) any remedial action to be taken or in the case of an imminent emergency, taken by Tenant or others in response to any Hazardous Materials on, under or about the Property, Project or the Improvements thereon, or to any Hazardous Materials claims or any Hazardous Materials Activity, (4) any enforcement, cleanup, or other regulatory action taken or threatened with respect to the presence of any Hazardous Material on, under, or around the Property, Project or the Improvements

thereon, or (5) Tenant's discovery of the presence of any Hazardous Materials or Hazardous Materials Activity on, under or about the Property, Project or the Improvements thereon whether or not the same requires notice to be given to any governmental entity or agency under Environmental Laws; (iv) submit to Landlord, promptly upon receipt or preparation, copies of any and all reports, studies, analyses, correspondence, governmental comments or approvals, proposed removal or other remedial work contracts and similar information prepared or received by Tenant in connection with any remedial work or Hazardous Materials relating to the Property, Project or the Improvements thereon; and (v) provide for periodic inspections of the Property, Project and the Improvements thereon and for periodic meetings with representatives of Landlord and, upon request, Landlord may, but shall not be required to, review the results of such inspections.

12.3 Environmental Cleanup.

(A) Tenant's Compliance. Throughout the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, comply, and cause each Tenant Party to comply with, any and all Environmental Laws with respect to any Hazardous Materials used, generated, stored or disposed of at the Project or the Improvements during the Term.

(B) Environmental Authority. Tenant shall, at Tenant's sole cost and expense, make, and require and use commercially reasonable efforts to cause each Tenant Party to make, all required submissions to, provide all information required by, and comply with any and all requirements of any and all Governmental Authority having jurisdiction over the environmental condition of the Property, Project or the Improvements thereon.

(C) Cleanup Plan. Should any Governmental Authority having jurisdiction over the Project or the Improvements thereon demand in accordance with Environmental Laws that a cleanup plan be prepared and that a cleanup be undertaken in accordance with Environmental Laws because of any Hazardous Materials Activity that Tenant or any of its agents, assignees, subtenants, contractors, consultants, subcontractors or employees (each, a "Tenant Party") caused during the Term in violation of Environmental Laws or this Ground Lease, at, on, or from the Property, Project or the Improvements thereon, or which arises at any time as a result of Tenant's or any Tenant Party's use or occupancy of the Project or the Improvements thereon, then Tenant shall, at Tenant's sole cost and expense and subject to Force Majeure Delay, prepare and submit the required plans and all bonds and other financial assurances required under Environmental Laws to Landlord for written approval. Following Tenant's receipt of Landlord's written approval, Tenant shall carry out all such cleanup plans in a timely manner, all as may be required by any such Governmental Authority in accordance with Environmental Laws and this Ground Lease. Landlord's consent to any remediation action by Tenant or its agents shall not constitute Landlord's endorsement, ratification or liability therefor and shall not constitute a waiver of any default of this Lease.

(D) Reporting. Tenant shall promptly provide all information regarding the any Hazardous Materials Activity, including the use, generation, storage,

transportation, or disposal of Hazardous Material by Tenant on or about the Project or the Improvements thereon, as reasonably requested by Landlord in writing

12.4 Landlord's Self-Help Right. If Tenant fails to comply with the provisions of this Article 12 and such failure continues and becomes a Tenant Event of Default, Landlord may, at its option and in its sole discretion, take all reasonably necessary actions to remedy the Tenant Event of Default at Tenant's sole expense, which sums shall be payable to Landlord within thirty (30) days of written demand. The obligations of Tenant under this Article 12 shall survive the expiration or termination of this Ground Lease.

12.5 Tenant Indemnification for Hazardous Materials. Tenant shall defend (with counsel acceptable to Landlord), indemnify and hold harmless Landlord and all Landlord Personnel from and against all threatened or actual liability, suits, proceedings, liens, orders, judgments, fines, encumbrances, actions, claims, including third party claims, environmental requirements and damages, environmental claims, costs of investigation and cleanup, expenses, penalties, fines, and losses (including, without limitation, diminution in value of Landlord's fee interest in the Property and Project and reversionary interest in Improvements after the Term of this Lease) of whatever kind or nature, which result from or are in any way connected with the release, escape, seepage, leakage, receipt, deposit, spill, handling, use, storage, accumulation, transportation, generation, discharge, or disposal of any Hazardous Materials which occurs in, on, under, from or about the Property, Project or the Improvements thereon during the Term of this Ground Lease or to the extent caused by Tenant or any Tenant Party, except to the extent caused by the gross negligence or willful misconduct of any Landlord.

ARTICLE 13. DAMAGE OR DESTRUCTION OF PROPERTY OR IMPROVEMENTS.

13.1 Tenant's Repair Obligation.

13.1.1 In case of damage to or destruction of the Property or the Improvements, or any part thereof, by fire or other cause at any time during the Term of this Ground Lease, Tenant, if and to the extent insurance proceeds are available, shall restore the same as nearly as possible to their value, condition, and character immediately prior to such damage or destruction. Such restoration shall be commenced with due diligence and in good faith, and prosecuted with due diligence and in good faith, unavoidable delays excepted.

13.1.2 In case of damage to or destruction of the Improvements by fire or other cause resulting in a loss exceeding in the aggregate Ten Thousand Dollars (\$10,000), Tenant shall promptly give written notice thereof to Landlord.

13.1.3 In the event insurance proceeds are insufficient to restore the Property or the Improvements to substantially its condition, and character immediately prior to such damage or destruction such that the Property may be operated in a manner comparable to prior to such damage or destruction, then, subject to the rights of the Mortgagees, either Tenant or Landlord shall have the right to terminate this Ground Lease by providing written notice thereof to the other party.

13.2 Tenant's Restoration of Project.

13.2.1 If, during the Term, the Improvements are damaged or destroyed, and the total amount of loss does not exceed thirty-three percent (33%) of the replacement value of the Improvements, Tenant shall make the loss adjustment with the insurance company insuring the loss, with the approval of Landlord, which approval shall not be unreasonably withheld or delayed. The proceeds shall be paid directly to a Mortgagee (if required by Mortgagee), if any, and if there is not a Mortgagee, to Landlord, for the sole purpose of making the restoration of the Improvements in accordance with this Article 13.

13.2.2 If, during the Term, the Improvements are damaged or destroyed, and the total amount of loss exceeds thirty-three percent (33%) of the replacement value of the Improvements, Tenant shall make the loss adjustment with the insurance company insuring the loss, with the approval of Landlord, which approval shall not be unreasonably withheld or delayed, and the insurance company shall immediately pay the proceeds to a Mortgagee (if required by Mortgagee), if any, and if there is not a Mortgagee, then to a bank, trust company or escrow company selected by Landlord and approved by Tenant ("**Insurance Trustee**"), which approval shall not be unreasonably withheld, conditioned or delayed. All sums deposited with the Insurance Trustee shall be held for the following purposes and the Insurance Trustee shall have the following powers and duties:

(a) The sums shall be paid in installments by Insurance Trustee to the contractor retained by Tenant and approved by Landlord as construction progresses, for payment of the cost of restoration. A ten percent (10%) retention fund shall be established that will be paid to the contractor on completion of restoration, payment of all costs, expiration of all applicable lien periods, and proof that the Property and the Improvements are free of all mechanics' liens and lienable claims;

(b) Payments shall be made on presentation of certificates or vouchers from the architect or engineer retained by Tenant and approved by Landlord (which approval shall not be unreasonably withheld, conditioned, or delayed) showing the amount due. If Insurance Trustee, in its reasonable discretion, determines that the certificates or vouchers are being improperly approved by the architect or engineer retained by Tenant, Insurance Trustee shall have the right to appoint an architect or an engineer (subject to Landlord's reasonable approval) to supervise construction and to make payments on certificates or vouchers approved by the architect or engineer retained by Insurance Trustee. The reasonable expenses and charges of the architect or engineer retained by Insurance Trustee shall be paid by Insurance Trustee out of the trust fund;

(c) If, after the work of restoration has commenced, the sums held by Insurance Trustee are not sufficient to pay the actual cost of restoration, Tenant shall deposit the amount of the deficiency with Insurance Trustee within ten (10) days after receipt of request for payment of such amount from Insurance Trustee, which request shall be made by Insurance Trustee promptly after it is determined there will be a deficiency;

(d) If Insurance Trustee has received notice from Landlord that Tenant is in default under this Ground Lease, then, subject to the lien of a Mortgagee's Mortgage and the Mortgagee's prior written consent, Insurance Trustee shall pay itself an amount sufficient to cure such default as specified in Landlord's notice to the Insurance Trustee;

(e) Any amounts remaining after making the payments hereinabove referred to in clauses (a), (b), (c), and (d) shall be paid to any leasehold Mortgagee to the extent (x) required by any Mortgage and (y) such leasehold Mortgagee makes written demand therefor to the Insurance Trustee;

(f) Any undisbursed funds remaining after compliance with all of the provisions of this Section 13.2 shall, if and to the extent required by any Mortgage, be delivered to the Mortgagee, and if there is no leasehold Mortgagee, to Tenant; and

(g) All actual costs and charges of Insurance Trustee in administering such funds shall be paid by Tenant. If any Insurance Trustee resigns or for any reason is unwilling to act or continue to act, Landlord shall substitute a new Insurance Trustee in the manner described in this Section.

13.2.3 Both parties shall promptly execute all documents and perform all acts reasonably required by Insurance Trustee to perform its obligations under this Section 13.2.

13.3 Procedure for Restoring Improvements.

13.3.1 If and to the extent Tenant is obligated to restore the Improvements pursuant to this Article 13, Tenant shall restore the Improvements substantially in accordance with the Plans and otherwise in conformance with this Article 13. Within forty-five (45) days after the date of such damage or destruction, Tenant, at its cost, shall prepare and deliver to Landlord final plans and specifications and working drawings complying with applicable laws that will be necessary for such restoration. Such plans and specifications shall specify differences from the Plans. The plans and specifications and working drawings are subject to the approval of Landlord only insofar as they vary from the Plans; provided that nothing in this Ground Lease is intended or shall be interpreted to release Tenant from the obligations to obtain any applicable governmental permits or comply with applicable laws with respect thereto. Landlord shall have thirty (30) days after receipt of the plans and specifications and working drawings to either approve or disapprove the plans and specifications and working drawings and return them to Tenant. If Landlord disapproves the plans and specifications and working drawings, Landlord shall notify Tenant of its objections in writing, specifying the objections clearly and stating what modifications are required for Landlord's approval. Tenant acknowledges that the plans and specifications and working drawings shall be subject to approval of the appropriate government bodies and that they will be prepared in such a manner as to obtain that approval.

13.3.2 The restoration shall be accomplished as follows:

(a) Tenant shall complete the restoration with reasonable diligence and in all events within eighteen (18) months after final plans and specifications and working drawings have been approved by the appropriate government bodies and all required permits have been obtained.

(b) Tenant shall retain a licensed contractor that is bondable. The contractor shall be required to carry public liability and property damage insurance, builders risk insurance, standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, during the period of construction in accordance with Article 9. Such insurance shall contain waiver of subrogation clauses in favor of Landlord and Tenant in accordance with the provisions of and to the extent required by Section 9.6.

(c) Tenant shall notify Landlord of the date of commencement of the restoration not later than thirty (30) days before commencement of the restoration to enable Landlord to post and record notices of non-responsibility. The contractor retained by Tenant shall not commence construction until a completion bond and a labor and materials bond have been delivered to Landlord to insure completion of the construction.

(d) Tenant shall accomplish the restoration in a manner that will cause the least inconvenience, annoyance, and disruption to the Property, Project and the Improvements.

(e) On completion of the restoration, Tenant shall immediately record a notice of completion, or else Landlord shall have the right to do so.

(f) The restoration shall not be commenced until sums sufficient to cover the cost of restoration are placed with Landlord or the escrow company (if any) as provided in Section 13.2.

13.4 Mortgage Protection. The following provisions are for the protection of a Mortgagee and shall, notwithstanding anything contained in this Ground Lease to the contrary, control:

13.4.1 Insurance. Any insurance proceeds payable from any policy of insurance (other than liability insurance) required by the Ground Lease shall be paid to and applied by the Mortgagees, if any, in accordance with their respective Mortgage. Each Mortgagee, if any, shall have the right to participate in all adjustments, settlements, negotiations, or actions with the insurance company regarding the amount and allocation of any such insurance proceeds. Any insurance policies permitted or required by this Ground Lease shall name each Mortgagee, if any, as an additional insured or loss payee, as appropriate, if required by such Mortgagees.

13.4.2 Restoration Tenant shall have no obligation to restore or repair the Improvements following the occurrence of any casualty for which insurance is not required under this Ground Lease. The Mortgagee, if any, and if it exercises any of its remedies set forth in this Ground Lease to acquire the leasehold estate hereunder, shall have no obligation to restore or repair damage to the Improvements that cost in excess

of available insurance proceeds. Tenant shall have no obligation to restore or repair damage to the Improvements if the casualty occurs during the last five (5) years of the Ground Lease term. In the event such a loss occurs in the last five (5) years, then, at the election of Tenant, with the prior written consent of Mortgagee, if any, insurance proceeds shall be used, first, to clear the Property of the damaged Improvements and any debris, and second, to reduce or pay in full the Mortgage, with any excess being payable as provided in this Ground Lease.

ARTICLE 14. CONDEMNATION.

14.1 Parties' Rights and Obligations to be Governed by Agreement. If, during the term of this Ground Lease, there is any condemnation of all or any part of the Property or any interest in Tenant's leasehold estate is taken by condemnation, the rights and obligations of the parties will be determined under this Article 14 **Error! Reference source not found.**, subject to the rights of any lender. Accordingly, Tenant waives any right to terminate this Ground Lease upon the occurrence of a partial condemnation under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure, as those sections may from time to time be amended, replaced, or restated

14.2 Notice. In case of the commencement of any proceedings or negotiations that might result in a condemnation of all or any portion of the Property during the Term, the party learning of such proceedings will promptly give written notice of the proceedings or negotiations to the other party. The notice will describe with as much specific specificity as is reasonable, the nature and extent of such condemnation or the nature of such proceedings or negotiations and of the condemnation that might result, as the case may be.

14.3 Total Taking. If a condemnation takes the entirety of the Property, this Ground Lease will terminate on the date the condemner has the right to possession of the Property.

14.4 Partial Taking. If any portion of the Property is taken by condemnation, but less than the entire Property, this Ground Lease will remain in effect, except that Tenant may, with lender's written consent, elect to terminate this Ground Lease if, in Tenant's reasonable judgment, the remaining portion of the Improvements, after taking into account any compensation awarded to Tenant and any repairs or reconstruction of the Improvements that can reasonably be undertaken, is rendered physically unsuitable for Tenant's continued operation of the Project, or is not capable of producing a reasonable net annual income. If Tenant elects to terminate this Ground Lease, Tenant must exercise its right to terminate under this paragraph by giving notice to Landlord within thirty (30) days after Landlord notifies Tenant of the nature and the extent of the taking. Tenant's termination notice must include the date of termination, which date may not be earlier than thirty (30) days or later than six (6) months after the date of Tenant's notice; except that this Ground Lease will terminate on the date the condemner has the right to possession of the Property and Project if that date falls on a date before the date of termination as designated by Tenant. If Tenant does not terminate this Ground Lease

within the thirty (30) day notice period, this Ground Lease will continue in full force and effect.

14.5 Restoration of Improvements. If there is a partial taking of the Property and Project and this Ground Lease remains in full force and effect under Section 14.4, then Tenant shall, subject to the terms of any Mortgage, use the proceeds of the taking first to accomplish any necessary restoration to the Improvements.

14.6 Award and Distribution. Any compensation awarded, paid, or received on a total or partial condemnation of the Project or threat of condemnation of the Project will belong to and be distributed in the following order (except that, in the case of a partial taking, the following distributions shall be made after payment of any necessary restoration costs as provided in Section 13.5):

14.6.1 First, to pay the balance due on any outstanding Mortgages and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals, and lease residuals, to the extent provided therein; and

14.6.2 Second, to Landlord in an amount equal to the then fair market value of Landlord's fee interest in the Property and the reversionary interest in the Improvements, such value to be determined as it existed immediately preceding the earliest taking or threat of taking of the site; and

14.6.3 Third, to Tenant in an amount equal to the then fair market value of Tenant's interest in the Project, such value to be determined as it existed immediately preceding the earliest taking or threat of taking of the Site.

14.6.4 Notwithstanding anything to the contrary set forth in this Section, any portion of the compensation awarded that has been specifically designated by the condemning authority or in the judgment of any court to be payable to Landlord or Tenant on account of any interest in the Property or the Improvements separate and apart from the condemned land value, the value of Landlord's reversionary interest in the Improvements, Tenant's leasehold estate, or the value of the Improvements on the Property for the remaining unexpired portion of the Term, will be paid to Landlord or Tenant, as applicable, as so designated by the condemning authority or judgment.

14.7 Payment to Lenders. In the event the Improvements are subject to the lien of a Mortgage on the date when any compensation resulting from a condemnation or threatened condemnation is to be paid to Tenant, the award will be disposed of as provided in the Mortgage(s), except to the extend provided in Section 14.5.

14.8 Temporary Condemnation. If there is a condemnation of all or any portion of the Property for a temporary period lasting less than the remaining Term, this Ground Lease will remain in full force and effect, and the entire award will be payable to Tenant.

14.9 Personal Property; Goodwill. Notwithstanding Section 14.6, Landlord will not be entitled to any portion of any award payable in connection with the condemnation of the

personal property of Tenant or any of its subtenants, or any moving expenses, loss of goodwill or business loss or interruption of Tenant, severance damages with respect to any portion of the Property and Improvements remaining under this Ground Lease, or other damages suffered by Tenant.

ARTICLE 15. ASSIGNMENT.

Because of the importance that Landlord places on Tenant's qualification, expertise and identity, and the reliance Landlord makes upon Tenant's ability to construct and operate the Project, during the Term, Tenant shall not assign or attempt to assign this Ground Lease, the Agreement or the Regulatory Agreement or any right herein. Notwithstanding the foregoing, however, Tenant may do the following without consent: (i) transfer limited partner interests; (ii) remove the general partner for a default under the Partnership Agreement; and (iii) transfer and assign its rights and duties hereunder to Mercy Housing California or an Affiliate of Mercy Housing California pursuant to the purchase option and/or right of first refusal entered into between Mercy Housing California (or an Affiliate of Mercy Housing California) and Tenant.

ARTICLE 16. MORTGAGES.

16.1 Ground Leasehold Mortgages. Notwithstanding anything to the contrary contained elsewhere herein, at all times during the Term, Tenant shall have the right to mortgage, pledge, deed in trust, assign rents, issues, and profits and/or collaterally (or absolutely for purposes of security if required by any lender) assign its leasehold interest in this Ground Lease, or otherwise encumber this Ground Lease, and/or the interest of Tenant hereunder, in whole or in part, and any interests or rights appurtenant to this Ground Lease, and to assign or pledge the same as security for any debt (the holder of any such mortgage, pledge, or other encumbrance, and the beneficiary of any such deed of trust being hereafter referred to as "**Mortgagee**" and the mortgage, pledge, deed of trust, or other instrument hereafter referred to as "**Mortgage**"), upon and subject to each and all of the terms and conditions listed in Paragraphs (a), (b), and (c) below:

(A) Tenant shall be limited in purpose to and the principal amount of all such Mortgages shall not exceed the amount necessary and appropriate to develop the Improvements, and to acquire and install equipment and fixtures thereon. Said amount shall include all hard and soft costs of acquisition, development, construction, lease-up, and operation of the Improvements.

(B) Any permitted Mortgages entered into by Tenant are to be originated only by Project lenders.

(C) All rights acquired by said Mortgagee shall be subject to each and all of the covenants, conditions and restrictions set forth in this Ground Lease, the Regulatory Agreement and the Agreement, and to all rights of Landlord thereunder, none of which covenants, conditions, and restrictions is or shall be waived by Landlord by reason of the giving of such Mortgage. By way of clarification, Tenant shall have no right to encumber all or any portion of Landlord's fee interest in the Property.

If Tenant encumbers its leasehold estate by way of a Mortgage as permitted herein, and should Landlord be advised in writing of the name and address of the Mortgagee, then this Ground Lease shall not be terminated or canceled on account of any Event of Default by Tenant in the performance of the terms, covenants or conditions hereof until Landlord shall have complied with the provisions of this Ground Lease as to the Mortgagee's rights to cure, so long as Landlord has been given written notice of the name and address of the Mortgagee, as required above. In addition, after the creation of any Mortgage permitted by this Ground Lease, no agreement by Landlord and Tenant to cancel, surrender, terminate, amend, or modify this Ground Lease shall be effective without the written consent of each Mortgagee; provided that this sentence is not intended to prohibit Landlord from exercising its rights and remedies for a Tenant default as provided herein.

16.2 Landlord's Forbearance and Right to Cure Defaults on Ground Leasehold Mortgages. Landlord will give to any Mortgagee, at such address as is specified by the Mortgagee in accordance with Section 22.1 hereof, a copy of each notice or other communication with respect to any claim that a default exists or is about to exist from Landlord to Tenant hereunder at the time of giving such notice or communication to Tenant, and Landlord will give to the Mortgagee a copy of each notice of any rejection of this Ground Lease by any trustee in bankruptcy of Tenant; provided, however, that a failure by Landlord to provide any such notice to Mortgagee shall not excuse a default by Tenant or extend Tenant's time to perform its obligations hereunder or effectuate a cure of said default. Each such notice to a Mortgagee shall be given by U.S. certified mail, postage prepaid, return receipt requested, and shall be effective upon receipt.

16.3 Landlord Cooperation. Landlord covenants and agrees that it will act and fully cooperate with Tenant in connection with Tenant's right to grant leasehold mortgages as hereinabove provided, provided such is at no cost to Landlord. At the request of Tenant or any proposed or existing Mortgagee, Landlord shall promptly execute and deliver (i) any documents or instruments reasonably requested to evidence, and/or acknowledge the rights of the Mortgagees as herein provided; and (ii) an estoppel certificate certifying the status of this Ground Lease and Tenant's interest herein and such matters relating thereto as are reasonably requested by Tenant or such Mortgagees. Such estoppel certificate shall include, but not be limited to, certification by Landlord that (a) this Ground Lease is unmodified and in full force and effect (or, if modified, a statement as to the nature of such modification and certification that this Ground Lease, as so modified, is in full force and effect, if applicable), (b) all rents currently due under the Ground Lease have been paid (or, if unpaid, the period and amount of any arrearages, penalties, interest and other charges), (c) there are not, to Landlord's actual, present knowledge, any uncured Events of Default on the part of Tenant under the Ground Lease or facts, acts or omissions which, with the giving of notice or passing of time, or both, would constitute an Event of Default (or, if there is a default, the nature and scope of the default). Any such estoppel certificate may be conclusively relied upon by any proposed or existing leasehold Mortgagee or assignee of Tenant's interest in this Ground Lease. As a condition to Landlord's obligation to execute and deliver any such document, instrument, or estoppel certificate, Tenant or the proposed or existing Mortgagee requesting the same shall be responsible to pay all of Landlord's actual and reasonable costs, including in-

house payroll and administrative costs and out-of-pocket costs for third party consultants and attorneys, to investigate and respond to such request.

16.4 No Subordination of Landlord's Interest. Landlord's fee interest in the Property shall be senior to, and not be subordinated to, any financing obtained by Tenant in connection with the Property.

16.5 Priority. This Ground Lease, and any extensions, renewals or replacements thereof, and any sublease entered into by Tenant as sublessor, and any Mortgage or other encumbrance now or hereafter recorded by any Mortgagee shall be superior to any future mortgages, deeds of trust or similar encumbrances placed by Landlord on the Property and to any lien right of Landlord on the buildings or any furniture, fixtures, equipment or other personal property of Tenant upon the Property or any interest of Landlord in sublease rentals or similar agreements. For avoidance of doubt, any rights of Landlord created by this Ground Lease, including without limitation any rights in the leasehold, the Improvements, the personal property of Tenant, or sublease rentals, shall be superior to the rights of any Mortgagee.

16.6 Claims. Landlord and Tenant shall deliver to each Mortgagee written notice of any litigation or arbitration proceedings between the parties or involving the Property, Project, the Regulatory Agreement, the Agreement or this Ground Lease. Any Mortgagee shall have the right, at its option and its expense, to intervene and become a party to any such proceedings. If a Mortgagee elects not to intervene or become a party, Landlord and Tenant shall deliver to said Mortgagee prompt written notice of and a written copy of any award, decision or settlement agreement made in connection with any such proceeding.

16.7 Further Amendments. Landlord and Tenant shall reasonably consider including in this Ground Lease by suitable amendment from time to time any provision which may be reasonably requested by any proposed Mortgagee for the purpose of implementing the mortgagee protection provisions contained in this Ground Lease and allowing the Mortgagee reasonable means to protect or preserve the lien of its Mortgage upon the occurrence of a default under the terms of this Ground Lease. Landlord and Tenant each agree to execute and deliver (and to acknowledge for recording purposes, if necessary) any agreement reasonably required to effect any such amendment.

16.8 [reserved]

16.9 Liens and Encumbrances Against Tenant's Interest in the Leasehold Estate

(A) Tenant (and Foreclosure Transferee) shall have the right to encumber the leasehold estate created by this Ground Lease and the Improvements with one or more deeds of trust or mortgages in conformance with the requirements of Section 16.1 hereof.

(B) Tenant shall not have the right to encumber Landlord's fee interest in the Property or Landlord's reversionary interest in the Improvements, provided, however, that Landlord shall permit the following to be recorded on the fee interest,

provided such are each in a form and substance that is reasonably acceptable to Landlord: (i) the covenant required in connection with the California Department of Housing and Community Development Infill Infrastructure Grant; (ii) the covenant required in connection with Joe Serna Farmworker funds from the California Department of Housing and Community Development; (iii) any required lease rider to the extent required by HCD; and (iv) any required lease rider to the extent required by TCAC.

(C) For as long as there is any lien securing any permitted Mortgage loan:

(1) Each permitted Mortgagee which has an outstanding Mortgage loan secured by Tenant's leasehold interest in the Property shall have the right, but not the obligation, at any time to pay any or all of the Rent due pursuant to the terms of this Ground Lease, and do any other act or thing required of Tenant by the terms of this Ground Lease, to prevent termination of this Ground Lease. Each Mortgagee and its agents and contractors shall have a right to enter the Property for purposes of accomplishing the foregoing, so long as such Mortgagee indemnifies and holds Landlord harmless from any and all liability arising from such entry upon the Property. Each Mortgagee shall have thirty (30) days after receipt of written notice from Landlord describing a default by Tenant to cure any default in the payment of Rent (including any monetary obligation of Tenant hereunder) and any other default the cure of which does not require physical possession of the Property before this Ground

This Ground Lease shall not be deemed terminated as to Mortgagee, and any payments so made and all things so done by or on behalf of a permitted Mortgagee shall be as effective to prevent a termination of this Ground Lease as the same would have been if made and performed by Tenant instead of by Mortgagee(s). If Tenant's default is such that possession of the Property is reasonably necessary to remedy the default, each permitted Mortgagee which has an outstanding Mortgage loan shall have such additional time after the expiration of such thirty (30) day period as such Mortgagee may reasonably require to remedy such default, provided that (i) such Mortgagee shall have fully cured any default in the payment of any monetary obligations of Tenant under this Ground Lease within such thirty (30) day period and shall continue to pay currently such monetary obligations when the same are due, and (ii) within one hundred twenty (120) days after receipt of Landlord's notice of default, such Mortgagee shall have acquired Tenant's leasehold estate hereunder or commenced foreclosure or other appropriate proceedings, shall be diligently prosecuting the same, and, after such Mortgagee acquires Tenant's leasehold estate hereunder such Mortgagee performs all of Tenant's obligations under this Ground Lease and the Agreement and promptly completes cure of Tenant's default.

(2) If a Mortgagee is prohibited, stayed, or enjoined by any bankruptcy, insolvency, or other judicial proceedings involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings, the times specified in subparagraph (1) above for commencing or prosecuting such foreclosure or other proceedings and completing a cure that requires possession of the Property shall be extended for the period of such stay prohibition or injunction; provided that any Mortgagee

shall have fully cured any default in the payment of any monetary obligations of Tenant under this Ground Lease and shall continue to pay currently such monetary obligations when the same fall due (subject to the notice and cure provision contained herein).

(3) Landlord shall deliver, by U.S. certified mail, postage prepaid, return receipt requested, to each permitted Mortgagee which has any outstanding Mortgage loan a duplicate copy of all notices which Landlord may from time to time give to Tenant pursuant to this Ground Lease.

(4) If this Ground Lease is terminated, whether by foreclosure, order of a bankruptcy court, or otherwise, upon written request by any permitted Mortgagee given within sixty (60) days after Landlord gives written notice of such termination to each permitted Mortgagee, Landlord shall enter into a new lease of the Property with the permitted Mortgagee for the remainder of the Term with the same agreements, covenants, reversionary interests, and conditions (except for any requirements which have been fulfilled by Tenant prior to termination) as are contained in this Ground Lease and with priority equal to this Ground Lease, which new lease shall be effective as of the date of termination of the original Ground Lease; provided, however, that a requesting Mortgagee shall promptly cure any defaults by Tenant reasonably susceptible to cure by the Mortgagee. Tenant under the new lease shall have the same right, title, and interest in and to all Improvements located on the Property as Tenant had under the terminated Ground Lease immediately prior to its termination. Landlord shall by quitclaim deed or by the terms of the new lease convey to the permitted Mortgagee, title to the improvements, if any, which become vested in Landlord as a result of the termination of the Ground Lease. The permitted Mortgagee shall be responsible for all costs reasonably incurred by Landlord in connection with the preparation and execution of such new lease. The rights and obligations in this paragraph shall survive termination of this Agreement.

(5) No Mortgagee shall be required to perform any act which is not susceptible to performance by a Mortgagee, such as to cure a filing or condition of bankruptcy or insolvency.

(D) Any Mortgage created pursuant to subsection (a) of this Section shall be subject to the provisions of this Ground Lease and all rights of Landlord under this Ground Lease.

(E) On transfer of this Ground Lease at any foreclosure sale, or upon creation of a new Ground Lease, any or all of the following Events of Default relating to the prior owner of the Ground Lease shall be deemed cured:

(1) Attachment, execution, or other judicial levy upon the Ground Lease;

(2) Assignment of the Ground Lease for the direct or indirect benefit of creditors of the prior Tenant;

(3) Judicial appointment of a receiver or similar officer to take possession of the Ground Lease;

(4) Filing a petition by, for, or against Tenant under any chapter of the federal Bankruptcy Act or any federal or state debtor relief statute, as amended; and

(5) Any other defaults personal to Tenant and/or not otherwise reasonably curable by Mortgagee.

(F) A Foreclosure Transferee shall succeed to all interest of Tenant in any security or other deposits or other impound payments paid by Tenant to Landlord, except to the extent such security or other deposit or impound payment is used by Landlord to cure an Event of Default of Tenant hereunder.

(G) Foreclosure of any Mortgage or any sale thereunder, whether by judicial proceedings or by virtue of any power of sale contained in such Mortgage, or any conveyance of the leasehold estate under this Ground Lease from Tenant to a Foreclosure Transferee in lieu of foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord or constitute a breach of any provision or a default under this Ground Lease. Landlord shall recognize the Foreclosure Transferee as Tenant under this Ground Lease following any such transfer, subject to the obligations of the Foreclosure Transferee to comply with this Ground Lease.

16.10 Cost of Loans to be Paid by Tenant. Tenant affirms that it shall bear all of the costs and expenses in connection with (i) the preparation and securing of the Mortgage loans, (ii) the delivery of any instruments and documents and their filing and recording, if required, (iii) all taxes and charges payable in connection with the Mortgage loans, and (iv) all costs reasonably incurred by Landlord in making any amendments of this Lease requested by Tenant or Mortgagees.

16.11 No Merger. There shall be no merger, without the consent of the permitted Mortgagee under any Mortgage, of the leasehold estate and the fee estate in the Property merely because both estates are acquired or become vested in the same person or entity.

16.12 Transfer Rights. Foreclosure of any permitted Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Mortgage, or any conveyance of the leasehold estate hereunder from Tenant to any Mortgagee or an affiliate of Mortgagee or entity controlled by Mortgagee, through, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof (any of the foregoing, a **"Foreclosure Action"**), shall not require the consent of Landlord or constitute a breach of any provision of or a default under this Ground Lease, and upon such foreclosure, sale, or conveyance, Landlord shall recognize the purchaser or other transferee in connection therewith as Tenant hereunder. Further, with respect to the first subsequent transfer of the Property following a Foreclosure Action, Landlord shall recognize such transferee, provided that prior to such transfer the transferee has provided evidence reasonably acceptable to Landlord that the transferee has experience in owning and operating

affordable housing rental developments of similar scale as the Project and with income and rent restrictions similar to the restrictions set forth in the Ground Lease, and a business reputation and record of fair dealing that is similar to that of Tenant as of the Commencement Date. Any further assignments shall require the approval of Landlord, which shall not unreasonably be withheld, conditioned, or delayed.

ARTICLE 17. SUBLEASING.

17.1 Subleasing of Property. Tenant will sublease individual residential units to income-qualified heads of household in accordance with the Affordability Restrictions and occupancy covenants set forth in this Ground Lease and the Regulatory Agreement. The Tenant will sublease the approximately 2,658 square foot tenant space on the ground floor of the Project for the operation of community-serving space (“**Resource Center Lease**”). All subleases entered into by Tenant with residents of the individual residential units in the Project (“**Resident Leases**”) shall be in compliance with the any applicable regulations of HCD, the Regulatory Agreement and any other applicable regulatory agreement required in connection with Project funding. The Residential Leases and the Resource Center Lease shall be subject to the following provisions and restrictions:

17.1.1 Each Resident Lease (or addendum thereto) and the Resource Center Lease shall contain a provision, satisfactory to Landlord, requiring the subtenant to attorn to Landlord upon (a) an Event of Default by Tenant under this Ground Lease, and (b) receipt by such sublessee of written notice of such Event of Default and instructions to make such sublessee’s rental payments to Landlord.

17.1.2 On any termination of this Ground Lease prior to the expiration of the Term, all of Tenant’s interest as sublessor under any and all existing valid and enforceable Resident Leases and Resource Center Lease for which Landlord has issued a non-disturbance agreement shall be deemed automatically assigned, transferred, and conveyed to Landlord and subtenants under such Resident Leases and Resource Center Lease shall be deemed to have attorned to Landlord. Landlord shall thereafter be bound on such Resident Leases and Resource Center Lease to the same extent Tenant, as sublessor, was bound thereunder and Landlord shall have all the rights under such Resident Leases and Resource Center Lease that Tenant, as sublessor, had under such Resident Leases and Resource Center Lease; provided, however, that any amendments to any such Resident Lease and Resource Center Lease made after the issuance of a non-disturbance agreement to a subtenant shall not be binding on Landlord.

17.1.3 Each Resident Lease (or addendum thereto) and the Resource Center Lease shall expressly provide that it is subject to each and all of the covenants, conditions, restrictions, and provisions of this Ground Lease. On expiration of the Term, all subleases shall terminate.

17.2 Approval of Operator of Community-Serving Space and Operational Program. ALAS will be the initial operator of the community serving space, operating a farmworker resource center subject to the terms and conditions in the Community Resource Center Lease entered into by ALAS and Tenant. The operational program

consists of providing health, wellness and other social services to residential tenants of the Project, and the provision of a multi-purpose community space to be used by the wider public for meetings and activities for up to 16 hours per week on weekdays. ALAS shall comply with the operational program outlined in the Community Resource Center Lease and approved by the Director, which approval shall not be unreasonably withheld or delayed. The operational program may be amended from time to time, as requested by Tenant and reasonably approved by the Director, which approval shall not be unreasonably withheld or delayed. In the event that ALAS's subtenancy with Tenant is terminated, Tenant shall replace ALAS with an operator that provides services to the residents. Tenant shall submit the proposed replacement community-serving space subtenant and its proposed operational program to the Director for review and approval, which shall not be unreasonably withheld or delayed.

17.3 Rights of Mortgagees. Notwithstanding anything contained in this Ground Lease to the contrary, all attornment provisions applicable to Landlord shall also be applicable to a permitted Mortgagee and, as between Landlord and the permitted Mortgagee, the permitted Mortgagee shall have priority in any attornment situation.

ARTICLE 18. PERFORMANCE OF TENANT'S COVENANTS.

18.1 Right of Performance. If Tenant shall at any time fail to pay any Imposition or other charge in accordance with Article 4 hereof, within the time period therein permitted, or shall fail to pay for or maintain any of the insurance policies provided for in Article 9 hereof, within the time therein permitted, or to make any other payment or perform any other act on its part to be made or performed hereunder, within the time permitted by this Ground Lease, then Landlord, after ten (10) days' written notice to Tenant (or, in case of an emergency, on such notice, or without notice, as may be reasonable under the circumstances) and without waiving or releasing Tenant from any obligation of Tenant hereunder, may (but shall not be required to):

- (A) pay such Imposition or other charge payable by Tenant pursuant to the provisions of Article 4 hereof, or
- (B) pay for and maintain such insurance policies provided for in Article 9 hereof, or
- (C) make such other payment or perform such other act on Tenant's part to be made or performed as in this Ground Lease provided.

18.1.1 Rights of Mortgagees. Notwithstanding anything in this Ground Lease to the contrary, all of the performance rights available to Landlord under Section 19.1 shall also be available to any Mortgagee.

18.2 Reimbursement and Damages. All sums paid by Landlord pursuant to Section 18.1 and all costs and expenses incurred by Landlord in connection with the performance of any such act, together with interest thereon at the rate provided in Section 4.5 from the respective dates of Landlord's making of each such payment or incurring of each such cost or expense, shall constitute additional Rent payable by Tenant under this Ground

Lease and shall be paid by Tenant to Landlord on demand. Landlord shall not be limited in the proof of any damages which Landlord may claim against Tenant arising out of or by reason of Tenant's failure to provide and keep in force insurance as aforesaid, to the amount of the insurance premium or premiums not paid or incurred by Tenant and which would have been payable upon such insurance, but Landlord shall also be entitled to recover as damages for such breach, the uninsured amount of any loss (to the extent required to be insured against pursuant to the terms of this Ground Lease), damages, costs and expenses of suit, including reasonable attorneys' fees, suffered or incurred by reason of damage to, or destruction of, the Improvements, occurring during any period in which Tenant shall have failed or neglected to provide insurance as aforesaid.

ARTICLE 19. EVENTS OF DEFAULT; REMEDIES.

19.1 Events of Default. Any one or all of the following events shall, subject to Section 21.1, constitute an Event of Default hereunder:

19.1.1 If Tenant shall default in the payment of any Rent when and as the same becomes due and payable and such default shall continue for more than ten (10) days after Landlord shall have given written notice thereof to Tenant; or

19.1.2 If Tenant shall materially default under this Ground Lease, the Regulatory Agreement or under the Agreement, and such default is not timely cured within the time provided for herein or therein; or

19.1.3 The abandonment or vacation of the Property by Tenant for a period of thirty (30) days after prior written notice thereof by Landlord; or

19.1.4 The entry of any decree or order for relief by any court with respect to Tenant, or any assignee or transferee of Tenant ("**Assignee**"), in any involuntary case under the Federal Bankruptcy Code or any other applicable federal or state law; or the appointment of or taking possession by any receiver, liquidator, assignee, trustee, sequestrator or other similar official of Tenant or any Assignee (unless such appointment is in connection with a permitted Mortgagee's exercise of its remedies under its Mortgage), or of any substantial part of the property of Tenant or such Assignee, or the ordering or winding up or liquidating of the affairs of Tenant or any Assignee and the continuance of such decree or order unstayed and in effect for a period of ninety (90) days or more (whether or not consecutive); or the commencement by Tenant or any such Assignee of a voluntary proceeding under the Federal Bankruptcy Code or any other applicable state or federal law, or consent by Tenant or any such Assignee to the entry of any order for relief in an involuntary case under any such law, or consent by Tenant or any such Assignee to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, sequestrator, or other similar official of Tenant or any such Assignee, or of any substantial property of any of the foregoing, or the making by Tenant or any such Assignee of any general assignment for the benefit of creditors; or Tenant or any such Assignee takes any other voluntary action related to the business of Tenant or any such Assignee or the winding up of the affairs of any of the foregoing.

19.2 Remedies.

19.2.1 If an Event of Default shall occur and continue as aforesaid, then in addition to any other remedies available to Landlord at law or in equity, but subject to Article 16, Landlord shall have the immediate option to terminate this Ground Lease and bring suit against Tenant and recover as an award in such suit or arbitration proceeding the following:

(a) the worth at the time of award of the unpaid rent and all other sums due hereunder which had been earned at the time of termination;

(b) the worth at the time of award of the amount by which the unpaid rent and all other sums due hereunder which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;

(c) the worth at the time of award of the amount by which the unpaid rent and all other sums due hereunder for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided;

(d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Ground Lease and/or any of the Transaction Documents, as applicable, or which in the ordinary course of things could be likely to result therefrom; and

(e) such amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California law.

19.2.2 The "worth at the time of the award" of the amounts referred to in Subparagraphs 19.2.1(a) and 19.2.1(b) above shall be computed by allowing interest at the rate provided in Section 4.5 as of the date of the award. The "worth at the time of award" of the amount referred to in subparagraph 19.2.1(c) above shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

19.3 Receipt of Rent, No Waiver of Default. No failure by Landlord to insist upon the strict performance of any term hereof or to exercise any right, power, or remedy consequent upon a default under this Ground Lease, and no acceptance of Rent during the continuance of any such default, shall constitute a waiver of any such default or of any such term. Not by way of limitation of the foregoing, the receipt by Landlord of the rents or any other charges due to Landlord, with knowledge of any breach of this Ground Lease by Tenant or of any default on the part of Tenant in the observance or performance of any of the conditions or covenants of this Ground Lease, shall not be deemed to be a waiver of any provisions of this Ground Lease. No acceptance by Landlord of a lesser sum than the rents or any other charges then due shall be deemed to be other than on account of the earliest installment of the rents or other charges due, nor shall any endorsement or statement on any check or any letter accompanying any check or

payment of rent or charges due be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy provided in this Ground Lease. The receipt by Landlord of any rent or any other sum of money or any other consideration paid by Tenant after the termination of this Ground Lease, or after giving by Landlord of any notice hereunder to effect such termination, shall not, except as otherwise expressly set forth in this Ground Lease, reinstate, continue, or extend the term of this Ground Lease, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by Landlord to Tenant prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by Landlord. Neither acceptance of the keys nor any other act or thing done by Landlord or by its agents or employees during the Term shall be deemed to be an acceptance of a surrender of the Property or the Improvements, excepting only an agreement in writing signed by Landlord accepting or agreeing to accept such a surrender.

19.4 Effect on Indemnification. Notwithstanding the foregoing, nothing contained in this Article 19 shall be construed to limit Landlord's right to indemnification as otherwise provided in this Ground Lease.

19.5 Remedies Cumulative. The various rights, options, elections, and remedies of Landlord and Tenant, respectively, contained in this Ground Lease shall be cumulative and no one of them shall be construed as exclusive of any other, or of any right, priority, or remedy allowed or provided for by law and not expressly waived in this Ground Lease.

ARTICLE 20. PERMITTED CONTESTS.

Tenant, at no cost or expense to Landlord, may contest (after prior written notice to Landlord), by appropriate legal proceedings conducted with due diligence, the amount or validity or application, in whole or in part, of any Imposition or lien, provided that (a) in the case of liens of mechanics, materialmen, suppliers or vendors, or Impositions or liens therefor, such proceedings shall suspend the collection thereof from Landlord, and shall suspend a foreclosure against the Property and/or the Improvements, or any interest therein, or any Rent, if any, (b) neither the Property or the Improvements, nor any part thereof or interest therein, or the Rent, if any, or any portion thereof, would be in any danger of being sold, forfeited, or lost by reason of such proceedings, and (c) Tenant shall have furnished to Landlord, if requested, a bond or other security, satisfactory to Landlord. If Tenant shall fail to contest any such matters, or to give Landlord security as hereinabove provided, Landlord may, but shall not be obligated to, contest the matter or settle or compromise the same without inquiring into the validity or the reasonableness thereof. Landlord, at the sole cost and expense of Tenant, will cooperate with Tenant and execute any documents or pleadings legally required for any such contest.

ARTICLE 21. FORCE MAJEURE.

21.1 Delay of Performance. Subject to Section 21.2 below, Tenant's performance of its obligations set forth in Article 7, Sections 11.2.4 and 11.4, Article 13, and Article 14 to timely make any required improvements, additions, changes, repairs, and replacements

to the Property shall be excused during the period of time that Tenant, after and despite its exercise of commercially reasonable diligence to perform such work, is prohibited, prevented, or materially delayed from proceeding with the work due to any of the following causes: any regulation, order, act, restriction, or requirement or limitation imposed by any federal, state, municipal, or foreign government or any department or agency thereof, or civil or military authority; acts of God; fire, explosion, or floods (subject to Tenant's obligations herein to promptly repair and restore the damage caused thereby); strikes, walkouts, or inability to obtain materials; war, terrorism, riots, sabotage or civil insurrection; epidemics or pandemics; or any other causes without the fault and beyond the reasonable control of Tenant following Tenant's exercise of good faith efforts to resolve. In no event shall adverse economic or market conditions, Tenant's inability to obtain financing, increases in interest rates, or similar causes justify an extension of Tenant's obligation to timely perform any of such obligations.

21.2 Notice and Cure Requirements. No prevention, delay, or stoppage of performance shall be excused unless:

(A) Tenant notifies Landlord within thirty (30) days of such prevention, delay, or stoppage that it is claiming excuse of its obligations under this Article 21; and

(B) Tenant diligently proceeds within thirty (30) days of the conclusion of such prevention, delay, or stoppage to cure the condition causing the prevention, delay or stoppage; and

(C) Tenant effects such cure within a reasonable time.

ARTICLE 22. GENERAL PROVISIONS.

22.1 Notices. Written notices, demands and communications between Landlord and Tenant ("**Notices**") shall be sufficiently given if (i) delivered by hand, (ii) delivered by reputable same-day or overnight messenger service that provides a receipt showing date and time of delivery, or (iii) dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of Landlord and Tenant at the addresses specified in this Section 22.1. Such Notices may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 22.1.

Any Notice shall be deemed received immediately if delivered by hand or delivered by messenger in accordance with the preceding paragraph, and shall be deemed received on the third (3rd) day from the date it is postmarked if delivered by registered or certified mail in accordance with the preceding paragraph.

If to Tenant: Mercy Housing California 110, L.P.
 1256 Market Street
 San Francisco, CA 94102
 Attn: Kelly Hollywood
 Email: kelly.hollywood@mercyhousing.org

with a copy to: Gubb and Barshay LLP
 235 Montgomery St., Suite 1110
 San Francisco, CA 94104
 Attn: CJ Highley, Evan Gross
 Email: cjhighley@gubbandbarshay.com;
 egross@gubbandbarshay.com

If to Landlord: Landlord of Half Moon Bay
 501 Main Street,
 Half Moon Bay, CA 94019
 Attn: Community Development Director
 Reference: 555 Kelly
 Email: llacko@hmbcity.com

with a copy to Half Moon Bay City Attorney's Office
 c/o Burke, Williams & Sorensen
 1999 Harrison Street, Suite 1650
 Oakland, CA 94612
 Attn: Denise Bazzano, Esq.

Addresses for Notice may be changed from time to time by delivery of a Notice to all other parties in compliance herewith. Notwithstanding that Notices shall be deemed given when delivered, the non-receipt of any Notice as the result of a change of address of which the sending party was not notified shall be deemed receipt of such Notice.

22.2 Certificates. Landlord or Tenant, as the case may be, shall execute, acknowledge, and deliver to the other, promptly upon request by Landlord, Tenant, or a Mortgagee, an estoppel certificate of Landlord or Tenant, as the case may be, certifying, to the knowledge of the certifying party (a) that this Ground Lease is unmodified and in full force and effect (or, if there have been modifications, that the Ground Lease is in full force and effect, as modified, and stating the date of each instrument so modifying the Ground Lease), (b) the date, if any, through which the Rent, if any, has been paid, (c) whether there are then existing any offsets or defenses against the enforcement of any term hereof on the part of Tenant to be performed or complied with (and, if so, specifying the same), and (d) whether any default exists hereunder and, if any such default exists, specifying the nature and period of existence thereof and what action Landlord or Tenant, as the case may be, is taking or proposes to take with respect thereto and whether notice thereof has been given to the party in default. Any Certificate may be relied upon by any

prospective purchaser, transferee, mortgagee, or trustee under a deed of trust or leasehold estate in the Property or any part thereof or of Landlord's or Tenant's interest under this Ground Lease. Tenant will also deliver to Landlord, promptly upon request, such information with respect to the Property or any part thereof as from time to time may reasonably be requested. Tenant or the existing or prospective Mortgagee requesting an estoppel certificate from Landlord shall, as a condition to receipt of such estoppel certificate, pay Landlord for Landlord's actual and reasonable costs incurred to investigate and respond to the same, including Landlord's in-house payroll and administrative costs and the amounts paid by Landlord to consultants and attorneys.

22.3 No Merger of Title. There shall be no merger of this Ground Lease or the leasehold estate created by this Ground Lease with any other estate in the Property or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly:(a) this Ground Lease or the leasehold estate created by this Ground Lease or any interest in this Ground Lease or in any such leasehold estate, and (b) any other estate in the Property and the Improvements or any part thereof or any interest in such estate, and no such merger shall occur unless and until all persons, corporations, firms and other entities, including any leasehold Mortgagee or leasehold Mortgagees, having any interest (including a security interest) in (i) this Ground Lease or the leasehold estate created by this Ground Lease, and (ii) any other estate in the Property or the Improvements or any part thereof shall join in a written instrument effecting such merger and shall duly record the same.

22.4 Quiet Enjoyment. Tenant, upon paying the Rent, if any, and other charges herein provided for and upon performing and complying with all covenants, agreements, terms and conditions of this Ground Lease to be performed or complied with by it, shall lawfully and quietly hold, occupy and enjoy the Property during the Term of this Ground Lease without hindrance or molestation by Landlord, or any person or persons claiming through Landlord.

22.5 No Claims Against Landlord. Nothing contained in this Ground Lease shall constitute any consent or request by Landlord, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof, nor as giving Tenant any right, power, or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against Landlord or its interest in the Property in respect thereof.

22.6 Non-Liability of Landlord or Landlord Officials and Employees. Neither Landlord or any Landlord Personnel shall be personally liable to Tenant, including any successor in interest of Landlord or any Landlord Personnel, in the event of any default or breach by Landlord or for any amount which may become due to Tenant or its successors, or on any obligations under the terms of this Ground Lease, the Agreement and the Regulatory Agreement. Tenant hereby waives and releases any claim it may have against Landlord and all Landlord Personnel with respect to any default or breach by Landlord or any of the Landlord Personnel or for any amount which may become due to Tenant or its successors, or on any obligations under the terms of this Ground Lease,

the Agreement or the Regulatory Agreement. Tenant makes such release with full knowledge of Civil Code Section 1542 and hereby waives any and all rights thereunder to the extent of this release, if such Section 1542 is applicable. Section 1542 of the Civil Code 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.”

Tenant's Initials

22.7 Inspection. Landlord and its authorized representatives may enter the Property and Project or any part thereof at all reasonable times for the purpose of inspecting, servicing, or posting notices, protecting the Property, Project or the Improvements, or for any other lawful purposes; provided, that except in cases of emergency Landlord shall provide Tenant prior telephonic or other notice of Landlord's intent to enter onto the Property or Project, Landlord's entries shall occur only during normal business hours (8 AM-6 PM Monday-Friday), and Landlord may only enter an occupied residential unit after giving the sublessee three (3) days prior written notice and either obtaining the consent of the occupant(s) or obtaining an inspection warrant, if required by law.

22.8 Holding Over. In the event Tenant shall hold over or remain in possession of the Property, Project or the Improvements with the consent of Landlord after the expiration of the Term, such holding over or continued possession shall create a tenancy for month-to-month only, upon the same terms and conditions as are herein set forth so far as the same are applicable. In the event Tenant shall hold over or remain in possession of the Property, Project or the Improvements without the consent of Landlord after the expiration of the Term, such holding over or continued possession shall create a hold over tenancy, upon the same terms and conditions as are herein set forth so far as the same are applicable, except that Rent shall be adjusted to the then fair market value rent, as reasonably determined by Landlord.

22.9 Relationship Between Landlord and Tenant. It is hereby acknowledged by Tenant that the relationship between Landlord and Tenant is not that of a partnership or joint venture and that Landlord and Tenant shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, with the exception of any provisions expressly set forth to the contrary herein, in the Agreement, or in the attachments or exhibits hereto, Landlord shall have no rights, powers, duties, or obligations with respect to the development, operation, maintenance, repair or management of the Project. Tenant agrees to indemnify, defend (with counsel acceptable to Landlord), and hold harmless Landlord from and against any and all claims, liabilities, and losses arising from a claimed relationship of partnership, joint venture, or agency between Landlord and

Tenant with respect to the development, operation, maintenance, repair or management of the Property or the Project, except to the extent occasioned by the gross negligence or willful misconduct of Landlord or its designated agents or employees.

22.10 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.

22.11 Venue for Legal Actions. All legal actions by either party to enforce this Agreement or seeking any remedy arising out of or related to this Agreement must be instituted and maintained in the Superior Court of the County of San Mateo, State of California, or in the United States District Court for the Northern District of California.

22.12 Service of Process. In the event that any legal action is commenced by Tenant against Landlord, service of process on Landlord shall be made by personal service upon the Director or in such other manner as may be provided by law. In the event that any legal action is commenced by Landlord against Tenant, service of process on Tenant shall be made by personal service upon the general partner of Tenant or in such other manner as may be provided by law. Service shall be effective regardless of whether it is made within the State of California.

22.13 Attorney's Fees. In the event of a dispute between the parties arising out of or in connection with this Ground Lease, the Agreement or the Regulatory Agreement whether or not such dispute results in arbitration or litigation, the prevailing party (whether resulting from settlement before or after arbitration or litigation is commenced) shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit, including expert witness fees, incurred by the prevailing party.

22.14 Time Is of The Essence. Time is of the essence of this Ground Lease and all of the terms, provisions, covenants, and conditions hereof.

22.15 Survival of Representations, Warranties and Covenants. The respective representations, warranties, and covenants contained herein shall survive the Commencement Date and continue throughout the Term.

22.16 Construction of Agreement. This Ground Lease shall be construed in accordance with the internal laws of the State of California, without regard to the choice of law rules thereof. The rule of construction that a document be construed strictly against its drafter shall have no application to this Ground Lease. Titles and captions are for convenience of reference only and do not define, describe, or limit the scope or the intent of this Ground Lease or of any of its terms. Reference to section numbers are to sections in this Ground Lease unless expressly stated otherwise.

22.17 Severability. If one or more of the provisions of this Ground Lease shall be held to be illegal or otherwise void or invalid, the remainder of this Ground Lease shall not be

affected thereby and shall remain in full force and effect to the maximum extent permitted under applicable laws and regulations.

22.18 Entire Agreement; Modification. This Ground Lease, the Regulatory Agreement and the Agreement collectively contain the entire agreement of the parties with respect to the matters discussed herein and supersede all prior discussions and negotiations between the parties with respect thereto. This Ground Lease may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extensions, or discharge is sought.

22.19 Binding Effect and Benefits. This Ground Lease and the Regulatory Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns. Except as otherwise set forth herein, nothing in this Ground Lease, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Ground Lease.

22.20 No Third-Party Rights. Except as may otherwise be expressly set forth herein, the parties intend that no rights nor remedies be granted to any third party as a beneficiary of this Ground Lease or of any covenant, duty, obligation, or undertaking established herein.

22.21 Real Estate Brokerage Commissions. Landlord and Tenant each represent and warrant to the other that no broker or finder is entitled to any commission or finder's fee in connection with this transaction, and each agrees to defend and hold harmless the other from any claim to any such commission or fee resulting from any action on its part.

22.22 Computation of Time. The time in which any act is to be done under this Ground Lease is computed by excluding the first day and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

22.23 Counterparts. This Ground Lease may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Ground Lease.

22.24 Number and Gender. Whenever the singular number is used in this Ground Lease and required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

22.25 Conflicts. To the extent conflicting provisions exist in this Ground Lease and the Agreement, the provisions of this Ground Lease shall control over any conflicting provision in the Agreement.

22.26 Incorporation by Reference. Every Exhibit attached to this Ground Lease and referred to herein is hereby incorporated by reference.

22.27 Consent Rights. Unless otherwise expressly provided in this Ground Lease, all approvals or consents of Landlord (or Director), Tenant, or any Mortgagee shall not be unreasonably withheld, conditioned, or delayed.

22.28 Legal Advice. Each party represents and warrants to the other party the following: such party has carefully read this Ground Lease and in signing this Ground Lease 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 Ground Lease, or it has knowingly chosen not to consult legal counsel as to the matters set forth in this Ground Lease and it has freely signed this Ground Lease 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 Ground Lease, and without duress or coercion, whether economic or otherwise.

[Remainder of page intentionally left blank; signatures on next page]

DRAFT

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

“Landlord”

CITY OF HALF MOON BAY, a political subdivision of the State of California

Date: _____, 2026

By:

Matthew Chidester, City Manager

Approved as to form:

Denise Bazzano, Interim City Attorney

“Tenant”

MERCY HOUSING CALIFORNIA 110, L.P., a California limited partnership

By: Mercy Housing California 110 LLC, a California limited liability company
Its General Partner

By: Mercy Housing California, a California nonprofit public benefit corporation

Its: Sole member/manager

Date: _____, 2026

By: _____
Ramie Dare
Vice President

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated in the County of San Mateo, City of Half Moon Bay, State of California, and is described as follows:

[INSERT LEGAL DESCRIPTION]

DRAFT

EXHIBIT "A"

EXHIBIT "B"

MEMORANDUM OF LEASE

(See following document)

DRAFT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Half Moon Bay
501 Main Street,
Half Moon Bay, CA 94019
Attn: Director of Community Development

Exempt From Recording Fee Pursuant to
Government Code Sections 6103 and 27383

MEMORANDUM OF GROUND LEASE

This **MEMORANDUM OF GROUND LEASE** (“**Memorandum**”) is hereby entered into as of [Date] by and between **CITY OF HALF MOON BAY**, a municipal corporation (“**Landlord**”), and **MERCY HOUSING CALIFORNIA 110, L.P.**, a California limited partnership (“**Tenant**”).

RECITALS

A. Landlord and Tenant have entered into a “Ground Lease” dated concurrently herewith for that certain real property owned by Landlord (the “**Property**”), which provides for the construction, maintenance, management and operation of a forty (40) unit senior farmworker multifamily apartment project, to be made available long term at an affordable housing cost, property management office space, a community serving space and parking (the “**Project**”). The Property is legally described in Exhibit “A,” which is attached hereto and incorporated herein by this reference. A copy of the Ground Lease is available for public inspection at the office of the Landlord, 501 Main Street, Half Moon Bay, CA 94019.

B. The term of the Ground Lease commences on the date of recordation of this Memorandum of Unrecorded Ground Lease in the Official Records of San Mateo County (the “**Commencement Date**”) and, subject to the provisions set forth in the Ground Lease and applicable law that may result in an earlier termination of the Ground Lease, continues until the ninety-ninth (99th) anniversary of the Commencement Date.

C. The Ground Lease provides that a short form memorandum of the Ground Lease shall be executed and recorded in the Official Records of San Mateo County, California.

NOW, THEREFORE, the parties hereto certify as follows:

Landlord, pursuant to the Ground Lease, hereby leases the Property to Tenant upon the terms and conditions provided for therein. This Memorandum of Lease is not a complete summary of the Ground Lease, and shall not be used to interpret the provisions of the Ground Lease.

EXHIBIT “B”

-1-

“Landlord”

CITY OF HALF MOON BAY, a political subdivision of the State of California

By:

Matthew Chidester, City Manager

Date:

Approved as to form:

Denise Bazzano, Interim City Attorney

“Tenant”

MERCY HOUSING CALIFORNIA 110, L.P., a California limited partnership

By: Mercy Housing California 110 LLC,
a California limited liability company
Its General Partner

By: Mercy Housing California,
a California nonprofit public benefit corporation
Its sole member/manager

Date:

By: _____
Ramie Dare
Vice President

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

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

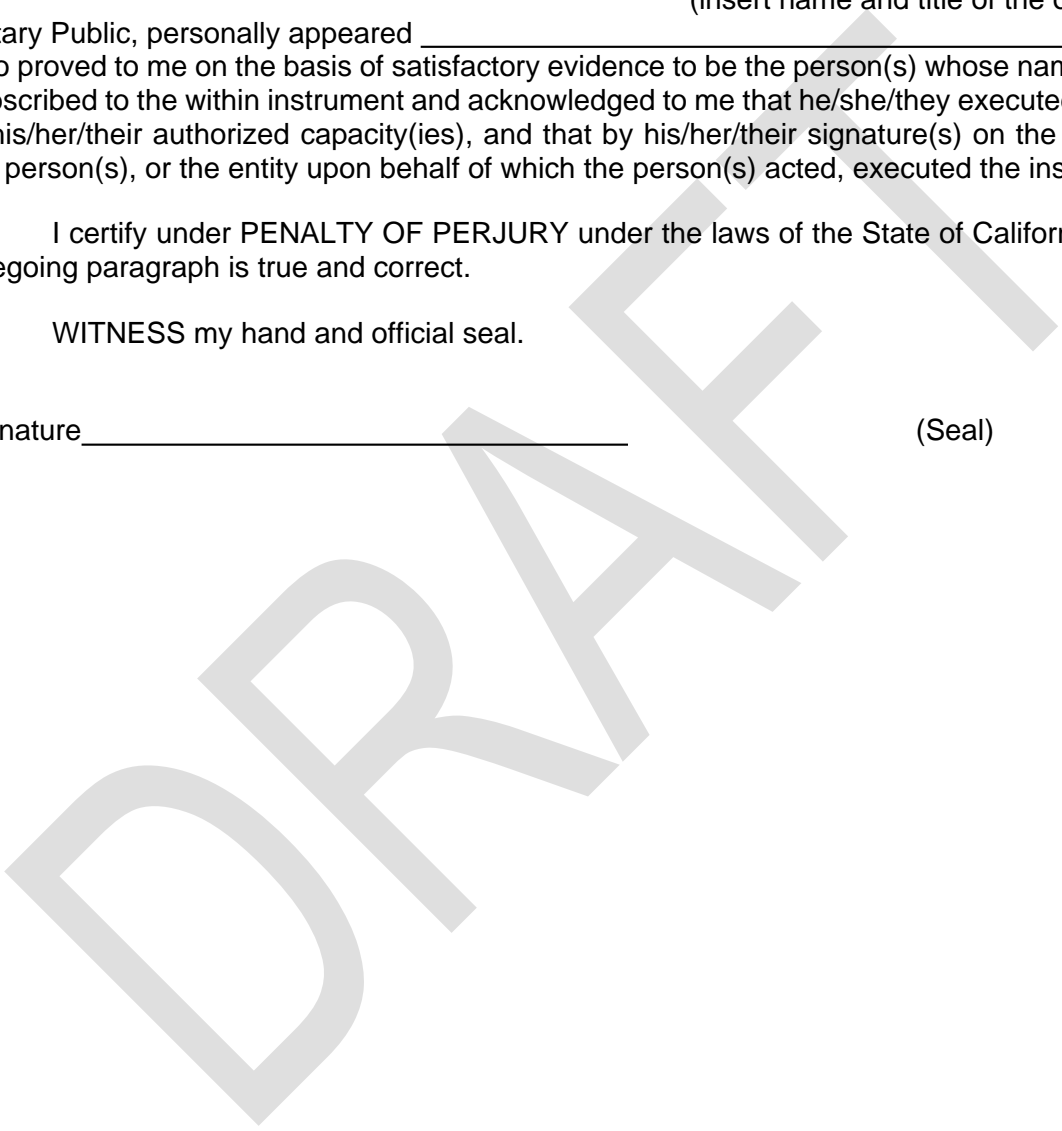
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



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

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

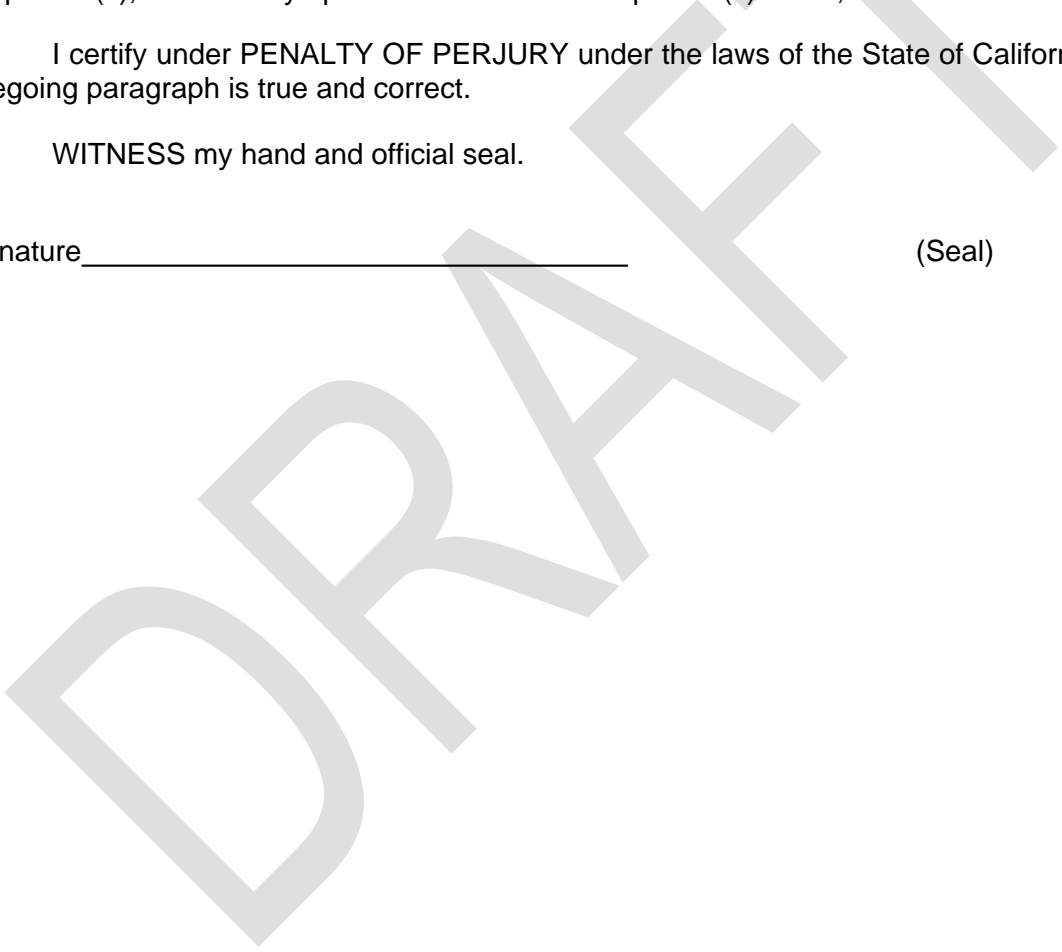
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



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

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

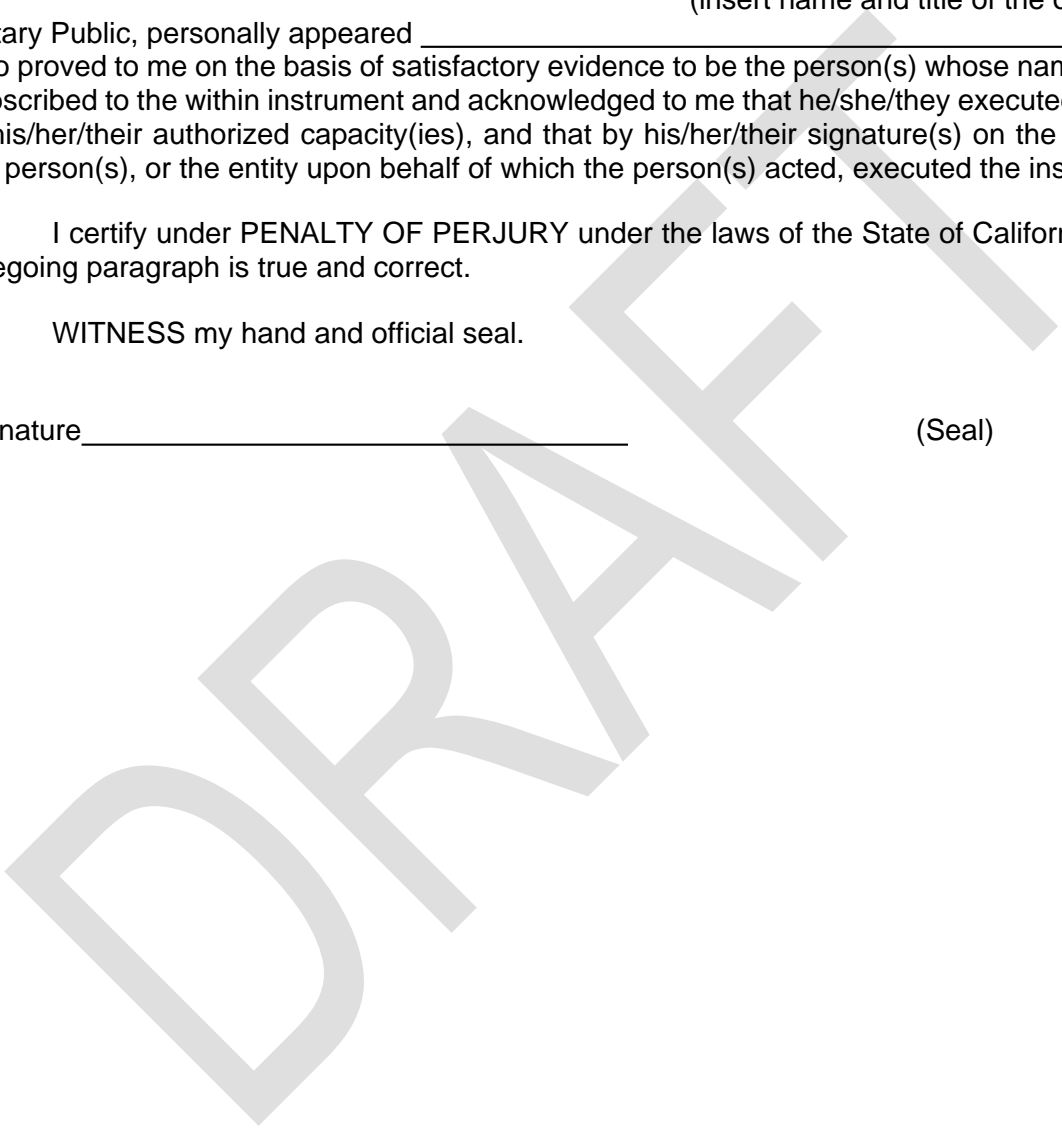


EXHIBIT "A" TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION

The land referred to is situated in the County of San Mateo, City of Half Moon Bay, State of California, and is described as follows:

[INSERT LEGAL DESCRIPTION]

DRAFT

EXHIBIT "B"

-6-

EXHIBIT "C"
REGULATORY AGREEMENT

[TO BE INSERTED]

DRAFT

EXHIBIT "C"

-7-

ATTACHMENT 3
(Estimated Costs and Financing Plan)

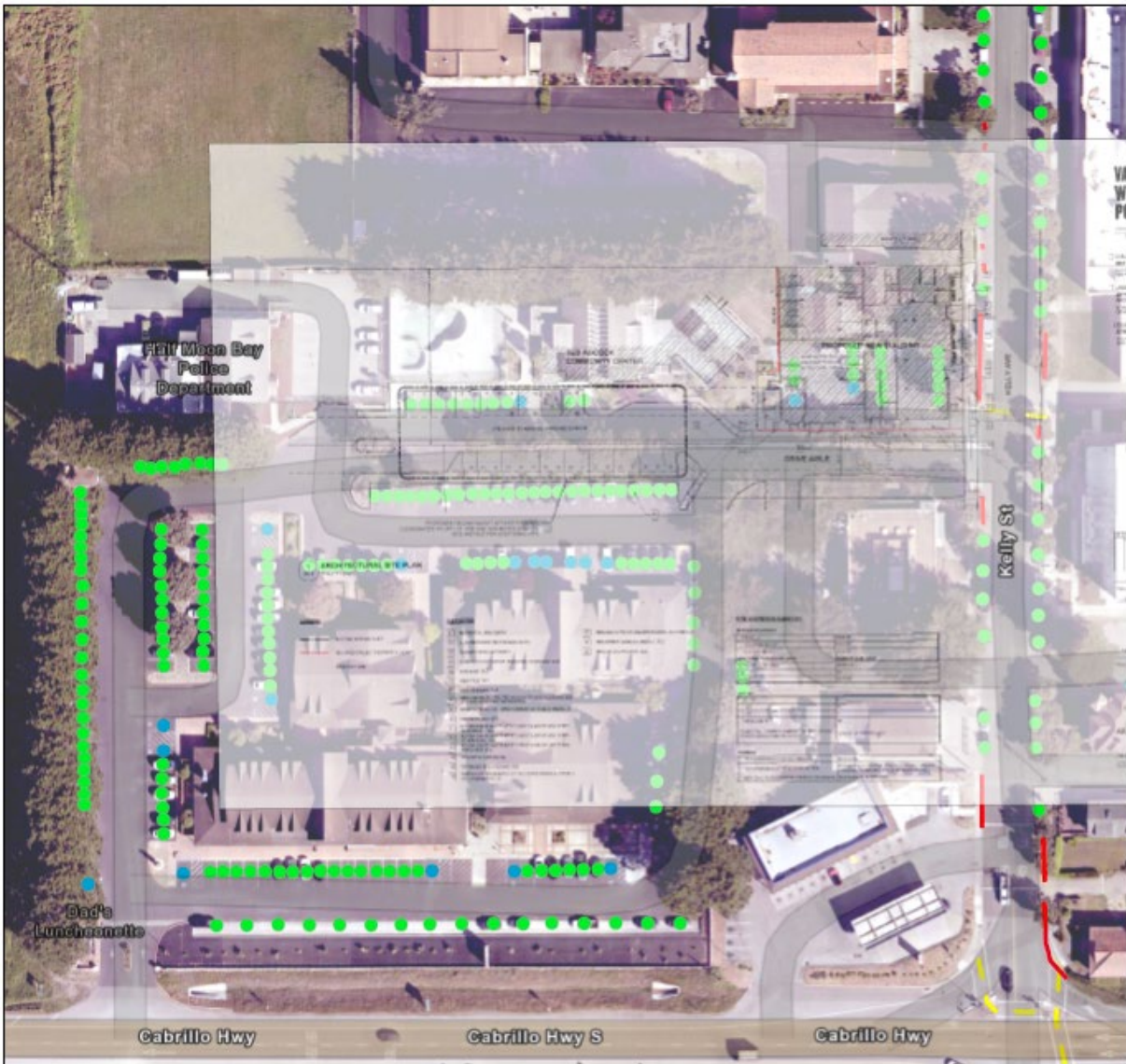
555 Kelly Financing Plan

CA Serna Farmworker Housing Program	\$	13,350,000	Secured
State Earmark: Senator Josh Becker	\$	2,000,000	Secured
CA Infrastructure Infill Grant	\$	2,756,304	Secured
San Mateo County ARPA	\$	1,141,234	Secured
San Mateo County AHF	\$	7,750,000	Application in 2026
Federal Earmark: Anna Eshoo	\$	1,800,000	Secured
Low Income Housing Tax Credit Program	\$	15,143,778	Application in 2026
Total Sources	\$	43,941,316	

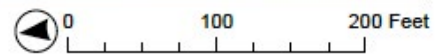
Development Uses (Costs)

Demolition, TACC Parking Reconfiguration and Infrastructure Required for Project	\$	2,756,304
New Building Construction	\$	28,530,377
Architecture, Engineering, Construction Supervision	\$	2,017,665
Local Permit and Utility Fees	\$	1,730,431
Financing Costs: Construction Interest and Insurance, Lender Fees, Reserves, Other	\$	8,531,539
Furnishings, Marketing and Lease Up	\$	375,000
Total Development Costs	\$	43,941,316

ATTACHMENT 4
(Parking Diagrams and Maps)



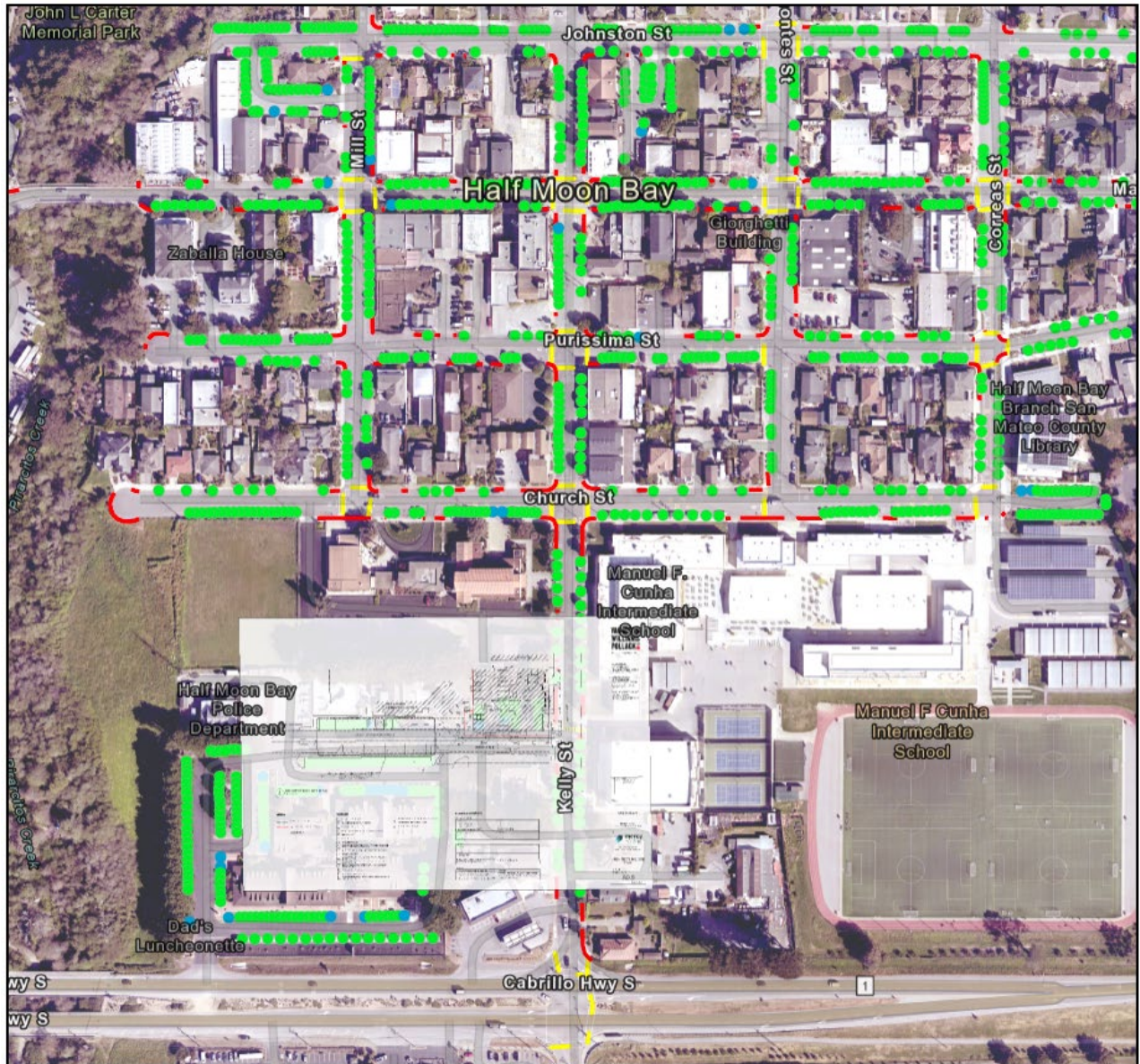
555 Kelly St Parking Map



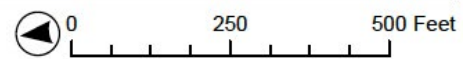
Parking Inventory

- Parking Space (220)
- ADA Parking Space (19)
- Crosswalks
- Red Curb (Pre Daylighting Law)

City of Half Moon Bay, Van Meter Williams Pollack LLP, County of San Mateo Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community



555 Kelly St Parking Map



Parking Inventory

- Parking Space (935)
- ADA Parking Space (35)
- Crosswalks
- Red Curb (Pre Daylighting Law)

City of Half Moon Bay, Van Meter Williams Pollack LLP, County of San Mateo Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **March 18, 2026**

TO: Honorable Mayor and City Council

FROM: Matthew Chidester, City Manager

TITLE: 555 KELLY AVENUE AFFORDABLE HOUSING DEVELOPMENT – AMENDMENT TO EXTEND THE EXCLUSIVE NEGOTIATIONS AGREEMENT BETWEEN THE CITY AND MERCY HOUSING

RECOMMENDATION:

Adopt a Resolution authorizing the City Manager to execute an amendment to the Second Exclusive Negotiations Agreement (ENA) between the City of Half Moon Bay and Mercy Housing California dated January 30, 2025, by extending the ENA to June 30, 2026, and authorizing the City Manager to further extend the ENA an additional six-months.

FISCAL IMPACT:

There is no fiscal impact directly associated with this action.

STRATEGIC ELEMENT:

This action supports the *Healthy Communities and Public Safety, and Inclusive Governance* Elements of the Strategic Plan.

BACKGROUND:

On October 4, 2022, the City Council approved an Exclusive Negotiations Agreement (First ENA) with Mercy Housing to outline general tasks to be undertaken by both the City and Mercy as preparations for a formal entitlement (CDP) application were under review. During the ENA term, Mercy engaged in public outreach through community meetings and Architectural Review Committee evaluation. They secured a Coastal Development Permit and were awarded roughly \$6.2 million from State and County funding sources for the project. The ENA was allowed to expire in October 2024 given permit entitlements were issued, and the City and Mercy were actively engaged in ground lease negotiations. The First ENA was extended twice and expired on October 30, 2024.

On January 21, 2025, the City Council approved a resolution for the City to enter into a second ENA with Mercy that provided twelve months to negotiate an Affordable Housing and Property

Disposition Agreement (AHPDA) and the terms of a ground lease for a senior affordable housing development at 555 Kelly Avenue. Additional background regarding the request for the second ENA is available in the January 21, 2025 [staff report](#), item 3.B. The ENA was signed by both parties on January 30, 2025 (Attachment 2) (Second ENA). Additional information and staff reports related to various project milestones are posted on the City website at this [link](#).

City Council approved an amendment to the Second ENA on April 1, 2025, where it approved additional language including (a) proposed ground lease term of at least sixty-five (65) years (an HCD lease term threshold) with an option of extending the lease term to 99 years; and (b) a proposed payment of \$1 per year.

Pursuant to Section 1.2 of the Second ENA, it was extended twice for 30-days to March 1, 2026, and to April 1, 2026. The ENA provided twelve months plus two 30-day extensions by the City Manager to negotiate an Affordable Housing and Property Disposition Agreement and the terms of a ground lease for a senior affordable housing development at 555 Kelly Avenue. The proposed amendment to the Second ENA would extend the Second ENA to June 30, 2026, and empower the City Manager to provide an additional six-month extension if necessary. The other terms and conditions of the Second ENA would remain unchanged.

DISCUSSION:

Extending the Second ENA and therefore preventing it from expiring is important so that Mercy can secure additional funding and retain existing funding for the project by providing funders with required proof of sufficient site control with specific terms outlined. The City's approval of the Coastal Development Permit for a 40-unit affordable senior farmworker project at 555 Kelly Avenue represented a critical milestone. CDP approval combined with the original ENA allowed Mercy to actively maintain awarded funding requirements and seek funding from State, and County sources.

The January 30, 2025, Second ENA filled a gap between then and execution of an AHPDA, and terms of a ground lease. Letting the Second ENA expire could result in loss of funding already secured for the project.

By its own terms, approval of the Second ENA and Amendment does not obligate either party to execute an AHPDA and/or ground lease. Entitlement issuance does not constitute control of the building site under conditions of typical affordable housing funding agencies. The Second ENA demonstrates that Mercy is actively engaged in negotiations with the City to preserve existing funds and to seek additional State and County funds. As the lease negotiations are currently active, amending the Second ENA would affirm that the City and Mercy are currently in good faith negotiations on the ground lease and affordable housing covenant.

ATTACHMENTS:

1. Resolution
2. Copy of ENA signed in January 2025

RESOLUTION NO. C-2026-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE SECOND EXCLUSIVE NEGOTIATIONS AGREEMENT WITH MERCY HOUSING CALIFORNIA, DATED JANUARY 30, 2026, AND AUTHORIZING THE CITY MANAGER TO FURTHER EXTEND THE ENA FOR AN ADDITIONAL SIX MONTHS FOR A SENIOR AFFORDABLE HOUSING DEVELOPMENT AT 555 KELLY AVENUE.

WHEREAS, the City of Half Moon Bay (City) owns two parcels located at 555 Kelly Avenue and 535 Kelly Avenue (the Site) (Assessor Parcel Numbers 056-150-200 and 056-150-220); and

WHEREAS, on February 15, 2022, the City issued a Request for Qualifications (RFQ) for the development of affordable housing on the Site that may target a range of affordable housing types and underserved populations; and

WHEREAS, Mercy Housing California (Mercy Housing), in partnership with Ayudando Latinos A Soñar (ALAS), submitted a response to the RFQ proposing construction of a 40-unit affordable farmworker housing development for households with extremely low or very low incomes (maximum of 30% or 50% of the Area Median Income), with the development to include associated amenities as well as a farmworker resource center (the Project); and

WHEREAS, on October 4, 2022, the City Council authorized an Exclusive Negotiations Agreement (First ENA) with Mercy Housing to enable Mercy Housing's affiliate, Mercy Housing California 110, L.P., a California limited partnership (Developer) to carry out predevelopment and development activities associated with the Project; and

WHEREAS, the purpose of the First ENA was to outline general tasks to be undertaken by both the City and Mercy as preparations for a formal entitlement (Coastal Development Permit – CDP) application were under review; and

WHEREAS, entitlements were issued when the City Council held an appeals hearing on June 26, 2024, and upheld the Planning Commission's earlier decision to approve a CDP and Architectural Review on May 14, 2024, for the Project; and

WHEREAS, the First ENA was allowed to expire on October 30, 2024, while the City and Mercy were actively engaged in ground lease negotiations; and

WHEREAS, on January 21, 2025, the City Council authorized a new ENA (Second ENA), executed on January 30, 2025, to provide twelve months to negotiate an Affordable Housing and Property Disposition Agreement (AHPDA) and the terms of a ground lease; and

WHEREAS, Mercy Housing requested an amendment to the Second ENA, to provide specific evidence of "site control" to existing and potential State and County funders while the negotiations of affordable housing covenants and terms of a ground lease are ongoing; and

WHEREAS, pursuant to Section 1.2 of the Second ENA, the City Manager provided two 30-day extensions through April 1, 2026, at which time the ENA is due to expire; and

WHEREAS, Mercy Housing requested a second amendment to the Second ENA, to extend the agreement to June 30, 2026, and authorize the City Manager to provide an additional 6-month extension; and

WHEREAS, by its own terms, approval of the Second ENA and any Amendment does not obligate either party to execute an AHPDA and/or terms of a ground lease, and Mercy is actively engaged in good faith negotiations with the City to preserve existing funds and to seek additional State and County funds.

NOW THEREFORE BE IT RESOLVED THAT, the City Council of the City of Half Moon Bay hereby authorizes the City Manager to execute an amendment to Second Exclusive Negotiations Agreement between the City and Mercy Housing dated January 30, 2025, by extending the ENA to June 30, 2026, and authorizing the City Manager to extend the ENA an additional six-months beyond June 30, 2026.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 18th day of March 2026, by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

APPROVED:

Maggie Rodriguez, Interim City Clerk

Debbie Ruddock, Mayor

**EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT
(555 KELLY AVENUE PROJECT)**

This Exclusive Negotiating Rights Agreement (this "Agreement") is entered into as of this January 30, 2025 (the "Effective Date"), by and between the City of Half Moon Bay, a public body, corporate and politic, organized and existing under the laws of the State of California (the "City"), and Mercy Housing California, a nonprofit public benefit corporation (the "Developer"). The City and the Developer are collectively referred to herein as the "Parties" and sometimes individually as a "Party".

RECITALS

A. The City owns or controls certain real property located in the City of Half Moon Bay at 535 Kelly Avenue and 555 Kelly Avenue and depicted in Exhibit A attached hereto (the "Site" or, the "Property"), and consisting of APNs 05610200 and 056150220 (partial), covering an area of approximately 17,000 sf.; and

B. On February 15, 2022, the City issued a Request for Qualifications ("RFQ") to select a developer to develop on the Site an affordable housing development consistent with the general goals and requirements contained in the RFQ (the "Development"); and

C. Through the RFQ process, the Developer was selected as the developer of the Site; and

D. The City and Developer previously entered into an Exclusive Negotiations Agreement (First ENA) on November 3, 2022 that was extended twice and expired October 30, 2024; and

E. The City Council authorized the allocation of \$1 million in Affordable Housing Funds for predevelopment costs associated with the development and entered into Predevelopment Loan Agreement Dated March 3rd, 2023; and

F. The City Council authorized the allocation of \$1.5 million in County ARPA funds for predevelopment costs associates with the Development and entered into a Grant Agreement dated August 22, 2023; and

G. The Developer has been awarded funding from The California Department of Housing and Community Development (HCD) in the amount of \$2,756,304 under the Infill Infrastructure Grant (IIG) Program; and

H. The Developer received approval of a Coastal Development Permit (PDP-23-034) from the City on June 26, 2024 following the denial of three appeals by the City and filing of NOFA with California Coastal Commission; and

I. The purpose of this Agreement is to establish: (1) the general tasks to be undertaken by the Developer and the City during the term of this Agreement as more particularly described in Article 2 of this Agreement; (2) the procedures and standards for the negotiation by the Parties of an Affordable

Housing and Property Disposition Agreement (the “AHPDA”); (3) the procedures and standards for the negotiation by the Parties of a Ground Lease; and (4) the terms, if any, under which the City may provide financial assistance to the Developer for development expenses to be incurred in connection with the Development (the “City Assistance”); As more fully set forth in Section 3.1, the Parties acknowledge and agree that this Agreement in and of itself does not obligate either Party to acquire or convey any property, does not grant the Developer the right to develop the Development, and does not obligate either Party to engage in any activities or incur any costs to develop the Development other than those activities set forth in Article 2 of this Agreement and the Schedule of Performance.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

ARTICLE 1. EXCLUSIVE NEGOTIATIONS

Section 1.1 Good Faith Negotiations. During the Negotiating Period as defined in Section 1.2 below, and subject to the terms and conditions of this Agreement, both the City and the Developer shall proceed diligently and in good faith regarding negotiation and documentation of the potential terms, conditions, covenants, restrictions and agreements of a AHPDA and a Ground Lease between them and the terms of any City Assistance pursuant to such a AHPDA and a Ground Lease. The issues to be addressed in the negotiations include at a minimum: (i) the terms of a ground lease of the Site to the Developer; (ii) the physical and land title conditions of the Site and remediation of any adverse conditions on the Site; (iii) the specific roles, rights and responsibilities of each Party (iv) the development schedule for the Development; (v) the financing of the Development (including, without limitation, the terms of the City Assistance); and (vi) evaluate design and unit mix as outlined under the additional Conditions of Approval as provided under the conditions of PDP-23-024 including Architectural Refinements (G PC-1) and Potential Change in Unit Mix (G. PC -4). The Parties may include additional issues in the negotiations at their mutual agreement.

The Parties shall generally cooperate with each other and supply such documents and information as may be reasonably requested by the other to facilitate the conduct of the negotiations. During the Negotiating Period, the Parties shall use good faith efforts to accomplish the respective tasks outlined in Article 2 of this Agreement to facilitate the negotiation of a mutually satisfactory AHPDA and the terms of a Ground Lease and the terms of any City Assistance and shall exercise reasonable efforts to complete discussions relating to the terms, conditions, covenants or restrictions of a AHPDA and Ground Lease and any City Assistance, all as may be mutually acceptable to both the City and the Developer. The exact terms and conditions of a AHPDA and Ground Lease and the City Assistance, if any, shall be determined during the course of these negotiations.

Section 1.2 Negotiating Period. The negotiating period under this Agreement is a period of 365 days, commencing on the Effective Date (the “Negotiating Period”). The Negotiating Period may be extended twice, each time for an additional 30-day period by the written agreement of the Parties, as provided below. The City Manager of the City, or his or her designee, has the authority to agree to such extension(s) on behalf of the City if, in the City Manager’s or designee’s judgment, sufficient progress has been made toward the execution of a mutually acceptable AHPDA and agreement on the terms of a Ground Lease and the terms of the City Assistance, if any, during the Negotiating Period to merit such an extension.

If an AHPDA has not been executed by the Parties prior to the expiration of the Negotiating Period or mutually agreed upon extension of the Negotiating Period, then this Agreement shall terminate and neither Party shall have any further rights or obligations under this Agreement. If an AHPDA is executed by the Parties prior to the expiration of the Negotiating Period or mutually agreed upon extension of the Negotiating Period, this Agreement shall terminate, and all rights and obligations of Parties shall be as set forth in the executed AHPDA and any documentation evidencing the City Assistance, if applicable.

The Negotiating Period may also be extended for the period of time that Developer’s

compliance is delayed, through no action or omission of Developer, by a Force Majeure Event. For purposes hereof, “Force Majeure Event” means (i) acts, failures to act and/or delays of the City in accordance with the Schedule of Performance; (ii) acts of God; (iii) flood, fire, earthquake, explosion, pandemic; (iv) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (iv) national or regional emergency, or other event out of Developer’s reasonable control that impacts the ability of Developer or City to meet milestone deadlines as set forth in this Agreement. The foregoing notwithstanding, any extension due to a Force Majeure Event shall run from the time of commencement of the Force Majeure Event, but only if written notice is delivered by Developer to City within thirty (30) days following such commencement of the cause of such Force Majeure Event, and shall continue for the period of time that such Force Majeure Event materially impacts Developer’s or City’s ability to comply with the Schedule of Performance and for a period no longer than 240 days.

Section 1.3 Exclusive Negotiations. During the Negotiating Period, the City shall not negotiate with any entity, other than the Developer, regarding development of the Site, or solicit or entertain bids or proposals to do so.

ARTICLE 2. NEGOTIATION TASKS

Section 2.1 Overview. To facilitate negotiation of the AHPDA and the terms of a Ground Lease, the Parties shall use reasonable good faith efforts to accomplish the tasks set forth in this Article 2 of this Agreement in a timeframe that will support negotiation and execution of a mutually acceptable AHPDA and the terms of a Ground Lease prior to the expiration of the Negotiating Period.

Section 2.2 Financing and Costs of Development. Within forty-five (45) days of the execution of this Agreement, the Developer will provide the City with the most up-to-date financial analysis for the construction of the Development. The financial analysis submitted by the Developer shall be refined by the Parties during the Negotiating Period.

Section 2.3 Property Management and Supportive Services. During the Negotiating Period, the Parties will negotiate the terms of property management and any supportive service provision, if any, which may be provided separately from the general resident services provided on site.

Section 2.4 Sub-Lease of Space to Ayudando Latinos a Sonar (“ALAS”). During the Negotiating Period, the Parties will negotiate the terms of any sub-lease of space within the Development to ALAS for the purpose of providing specific resident and community services and activities.

Section 2.5 Parties’ Relationship. During the Negotiating Period, the Parties will define the relationship between each other regarding the rights, responsibilities and roles of each Party

ARTICLE 3. GENERAL PROVISIONS

Section 3.1 Limitation on Effect of Agreement. This Agreement shall not obligate

either the City or the Developer to enter into a AHPDA and a Ground Lease. By executing this Agreement, the City is not committing itself to or agreeing to undertake conveyance, acquisition, or disposition of any parcels in the Site. By executing this Agreement, the City is merely agreeing to negotiate exclusively with the Developer for a particular period of time in accordance with the terms hereof, reserving for the City's subsequent action the final discretion and approval regarding the execution of a AHPDA and all proceedings and decisions in connection therewith. Any AHPDA resulting from negotiations pursuant to this Agreement shall become effective if and only if and after such AHPDA and Ground Lease has been considered and approved by City and executed by duly authorized representatives of City and Developer. Unless and until a AHPDA is signed by the Developer, approved by the City and executed by the City, no agreement drafts, actions, deliverables or communications arising from the performance of this Agreement shall impose any legally binding obligation on either Party to enter into or support entering into a AHPDA and a Ground Lease or be used as evidence of any oral or implied agreement by either Party to enter into any other legally binding document.

Section 3.2 City Approvals. Developer shall be responsible for obtaining any subsequent approval required for the Project, including payment for all of City's costs of processing such approvals. Nothing set forth herein shall be construed as a grant of any such approvals, nor as an obligation on the part of City to grant such approvals.

Section 3.3 Notices. Formal notices, demands and communications (other than day to day routine communications) between the City and the Developer shall be sufficiently given if, and shall not be deemed given unless: (i) dispatched by certified mail, postage prepaid, return receipt requested, (ii) sent by express delivery or overnight courier service with a delivery receipt, (iii) personally delivered with a delivery receipt, or (iv) sent by facsimile with a copy delivered by one of the previous three methods, to the office of the parties shown as follows, or such other address as the parties may designate in writing from time to time:

City: City of Half Moon Bay
Community Development Department
501 Main Street
Half Moon Bay, CA 94109
Attn: Director
Reference: 555 Kelly Avenue Project

With a copy to:
Catherine Engberg
City Attorney
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102

Developer: Mercy Housing California
1256 Market Street
San Francisco, CA 94102
Attn: Ramie Dare

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

Section 3.4 Right of Entry.

The Developer and its consultants shall have the right to enter upon the Site during normal business hours to carry out normal business activities such as carrying out visual observations, meeting with City staff regarding the Development, etc. No formal notice is required for such activities on the Site. The Developer and its consultants will work with the City staff to give reasonable advance notice for any such planned activities on the Site.

The Developer and its consultants shall obtain the City's written approval, which may be requested and provided via email, prior to entering upon the Site to conduct physical investigations in accordance with this Agreement. Any such requests shall include, at a minimum, a description of the work to be performed and any expected disruption to the physical state of the Site or the normal activity of City staff on the Site, the names and company affiliations of any personnel that will perform such work, a projected schedule for the work, and a copy of liability insurance certificates covering the right of entry and naming the City, its employees and affiliates as an additional insured. Such work, once approved, shall be conducted during normal business hours, unless otherwise approved by the City. In connection with such entry and investigation, the Developer shall: (i) give the City or its designee reasonable advance notice; (ii) repair and restore any damage it may cause; (iii) carry liability insurance covering the right of entry naming the City as an additional insured; and (iv) deliver to the City, within ten (10) days of receipt thereof, a complete copy of any investigation, test, report or study which the Developer conducts, or causes to be conducted, with respect to the Site.

Section 3.5 Costs and Expenses. Except as explicitly set forth in this Agreement, each Party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement, and the performance of each Party's obligations under this Agreement.

Section 3.6 No Commissions. Each Party represents to the other that it has not retained the services of any broker, agent or finder with respect to the Site or in connection with any matters relating to this transaction of the subject discussions, and agrees to hold the other Party harmless from and against any claim for commission, fee, or other remuneration by any broker, agent, or finder under any claimed retainer for services with respect thereto. The City shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement or any DDLA that may result from this Agreement, unless the City retains a broker, agent or finder.

Section 3.7 Defaults and Remedies.

(a) Default. Failure by either Party to negotiate in good faith as provided in this Agreement shall constitute an event of default under this Agreement. The non-defaulting Party shall give written notice of a default to the defaulting Party, specifying the nature of the default and the required action to cure the default. If a default remains uncured fifteen (15) days after receipt by the defaulting Party of such notice, or, if the default cannot be cured within 15 days, if the defaulting party fails to commence to cure within 15 days and thereafter diligently pursue such cure

and complete such cure within a reasonable period thereafter, the non-defaulting Party may exercise the remedies set forth in subsection (b).

(b) Remedies.

(1) In the event of an uncured default by the City, the Developer may either: (a) seek specific performance; or (b) terminate this Agreement, in which case following such termination, neither Party shall have any further right, remedy or obligation under this Agreement.

(2) In the event of an uncured default by the Developer, the City's sole remedy shall be to terminate this Agreement. Following such termination, neither Party shall have any right, remedy or obligation under this Agreement.

Except as expressly provided above, neither Party shall have any liability to the other Party for damages or otherwise for any default, nor shall any Party have any other claims with respect to performance under this Agreement. Each Party specifically waives and releases any such rights or claims it may otherwise have at law or in equity.

Section 3.8 Termination.

(a) This Agreement may be terminated at any time by mutual consent of the Parties.

(b) Developer shall have the right to terminate this Agreement, effective upon 30 days' written notice to the City that Developer has determined the Project to be financially or physically infeasible, provided that the City has reviewed and agreed with Developer's determination. Notwithstanding the foregoing, if the City approves revisions to the proposed Development to address Developer's determination of infeasibility during the 30-day period following Developer's notice, this Agreement shall remain in effect.

Section 3.9 Effect of Termination. If the Parties have not entered into a AHPDA prior to the termination of this Agreement as provided herein, or prior to the expiration of the Negotiating Period (as it may be modified by the Parties pursuant to Section 1.2 of this Agreement), this Agreement shall terminate, and there shall be no further liability or obligation on the part of any of the Parties or their respective officers, employees, agents or other representatives; provided however, the provisions of Section 3.4 (Right of Entry) to the extent necessary to repair or restore any damage caused by Developer, Section 3.19 (Confidentiality), and Section 3.20 (Indemnification) shall survive such termination.

Section 3.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 3.11 Entire Agreement. This Agreement constitutes the entire agreement of the Parties regarding the subject matters of this Agreement.

Section 3.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

Section 3.13 Assignment. The Developer may not transfer or assign any or all of its rights or obligations hereunder except with the prior written consent of the City, which consent

shall be granted or withheld in the City's reasonable discretion, and any such attempted transfer or assignment without the prior written consent of City shall be void. Notwithstanding the foregoing and subject to the City's consent, which consent shall not be unreasonably withheld, Developer may assign its rights and obligations hereunder to a limited partnership in which Developer or its wholly owned affiliate is the managing member of the general partner.

Section 3.14 Non-Recourse to Agents. No member, official, employee, agent, or consultant of any Party to this Agreement shall be personally liable to any other Party, or any successor in interest or person claiming by, through or under any Party, in the event of any default or breach, or for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

Section 3.15 No Third Party Beneficiaries. This Agreement is made and entered into solely for the benefit of the City and the Developer and no other person shall have any right of action under or by reason of this Agreement.

Section 3.16 Actions by the City. Whenever this Agreement calls for or permits the approval, consent, authorization or waiver of the City, the approval, consent, authorization, or waiver of the City Manager of the City or his or her designee shall constitute the approval, consent, authorization or waiver of the City without further action of the City.

Section 3.17 Relationship of the Parties. The subject of this Agreement is a co-development undertaking between the Parties for coordinated development of the Site. Aside from the relationship between the Parties described herein and to be further negotiated under this Agreement for inclusion in the executed AHPDA, and a Ground Lease neither Party is acting as the agent of the other Party in any respect, and none of the provisions in this Agreement shall be deemed to render the City a partner in any additional business, venture, or enterprise of Developer.

Section 3.18 Cooperation. In connection with this Agreement, the Developer and the City shall reasonably cooperate with one another to achieve the objectives and purposes of this Agreement. In so doing, the Parties shall each refrain from doing anything that would render its performance under this Agreement impossible, and each shall do everything that this Agreement contemplates that the Party shall do to accomplish the purchase of this Agreement.

Section 3.19 Confidentiality. The Parties enter into this Agreement with the understanding that during the negotiations, the City may request that Developer provide certain information that is proprietary in order for the City to verify financial, operational or trade secret information that is relevant to the negotiations of the AHPDA and the Ground Lease and that will serve the public interest in assisting the City to negotiate effectively. Any such information requested by the City, and if Developer reasonably designates and clearly marks any such information as confidential or proprietary, then the City shall not disclose such information publicly without Developer's consent, except to the extent that the City is compelled to make such a disclosure under applicable law. The City agrees to notify Developer of any public records request that involves information that Developer has designated as confidential or proprietary under this Agreement. Developer agrees to bear all the costs of any litigation that is filed to determine the applicability of the public records law to documents submitted by Developer and designated as confidential or proprietary under this Section. Developer acknowledges that the final draft of the AHPDA and the Ground Lease proposed for endorsement and/or approval by the City Council will be

made available to the public.

Section 3.20 Indemnification. Developer hereby covenants to indemnify, hold harmless and defend the City and its respective elected and appointed officials, officers, agents, representatives and employees (all of the foregoing, collectively the “Indemnitees”) from and against all liability, loss, cost, claim, demand, action, suit, legal or administrative proceeding, penalty, deficiency, fine, damage and expense (including, without limitation, reasonable attorney’s fees and costs of litigation) (all of the foregoing, collectively the “Claims”) arising out of any act of negligence, misfeasance or willful misconduct of Developer in connection with this Agreement or the activities contemplated hereby. Developer shall have no indemnification obligation with respect to claims arising solely out of the negligence, misfeasance or willful misconduct of the City. Developer’s indemnification obligations set forth in this Section 3.22 shall survive the expiration or earlier termination of this Agreement.

Section 3.21 Waiver of Claims. Developer expressly and absolutely waives any and all claims against the City or the City property, directly or indirectly, arising out of, or in any way connected with, any or all of the following matters:

- (a) Any aspect of the Request for Qualifications for 555 Kelly Avenue (the “RFQ”), including any information or material set forth therein or referred to therein;
- (b) Any modification, or suspension of the RFQ, or informalities or defects therein; and
- (c) Any defects in the selection procedure identifying Developer as the preferred developer conducted by the City or any act or omission of the City with respect thereto, or any release or dissemination of any information submitted by Developer to the City prior to the Effective Date of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the date first above written.

THE DEVELOPER:

MERCY HOUSING CALIFORNIA

By: Ramie Dare
Ramie Dare, Vice President

CITY:

CITY OF HALF MOON BAY

By: Matthew Chidester
Matthew Chidester, City Manager

EXHIBIT A
PROPERTY DESCRIPTION

