

**EXHIBIT B
NAPA PIPE
AFFORDABLE HOUSING PLAN**

1. DEFINITIONS

Initially capitalized terms unless separately defined in this Affordable Housing Plan have the meanings and content set forth elsewhere in the Agreement. Terms defined elsewhere in the Agreement and also set forth in this Section are provided herein for convenience only.

1.1 Adequate Security means security provided by Landowner that (i) provides reasonable assurances regarding the obligations secured thereby in accordance with the Agreement; and (ii) is in a form determined by Landowner and reasonably approved by the City Director of Public Works, including, but not limited to a guaranty, bonds, letters of credit, certificates of deposit or any other form that provides reasonable assurances regarding the obligations secured thereby. Any security provided in connection with a final subdivision map that conforms to the requirements of Exhibit I to this Agreement, Subdivision Procedures, shall be considered Adequate Security. Landowner and City Director of Public Works will in good faith consider reasonable modifications to such Adequate Security for an Approved Site's Project Infrastructure as may be necessary to respond to a request from the Qualified Housing Developer's lender, provided such request does not require substantial changes to the form, scope, or nature of the Project Infrastructure security that conforms to the requirements of Exhibit I of this Agreement or increase the Landowner's costs or obligations with respect to such security, and the modified security provides adequate assurances regarding the secured obligations, as determined by the City Director of Public Works.

1.2 Adequately Secured means an obligation that is covered by Adequate Security.

1.3 Affordable Homes shall mean Residential Units constructed by a Qualified Housing Developer on the Developable Affordable Parcels which are available at an Affordable Housing Cost and rented to Very Low Income Households or Low Income Households.

1.4 Affordable Homes Regulatory Agreement means an agreement between the City and the Qualified Housing Developer to be recorded against the Developable Affordable Parcels to ensure that the Developable Affordable Parcels are utilized for Affordable Homes, which shall be in substantially the form of the draft Affordable Homes Regulatory Agreement attached to this Affordable Housing Plan as Attachment C.

1.5 Affordable or Affordable Housing Cost means (i) with respect to a Rental Residential Unit required to be Affordable to a Very Low Income Household a monthly rental charge, including a Utility Allowance, which does not exceed thirty percent (30%) of one-twelfth of fifty percent (50%) of the Area Median Income based on Assumed Household Size; (ii) with respect to a Rental Residential Unit Affordable to a Low Income Household a monthly rental charge, including a Utility Allowance which does not exceed thirty percent (30%) of one-twelfth of sixty percent (60%) of the Area Median Income based upon Assumed Household Size and

(iii) with respect to Rental Residential Unit required to be Affordable to Moderate Income Household, a monthly rental charge, including a Utility Allowance, which does not exceed thirty percent (30%) of one-twelfth of one hundred ten percent (110%) of Area Median Income based upon Assumed Household Size. With respect to a For-Sale Residential Unit, Affordable or Affordable Housing Cost means a purchase price determined such that the homeowner's total annual housing payment does not exceed thirty three percent (33%) of the maximum Area Median Income permitted for the applicable type of Residential Unit, based upon Assumed Household Size. For purposes of such For-Sale Residential Units, the total annual housing payment will include principal and interest on a fixed rate thirty (30) year mortgage with commercially reasonable rates, points, and fees, assuming a five percent (5%) down payment, taxes, assessments [and insurance], and any homeowners association dues.

1.6 Affordable Housing Parcel shall mean a parcel designated by Landowner and approved by the City as a site for development of an Affordable Housing Project, meeting the standards for Developable Affordable Parcels.

1.7 Affordable Housing Parcel Deed means a grant deed substantially in the form of Attachment A hereto.

1.8 Affordable Housing Project means a Residential Project containing Affordable Homes and may also contain other uses permitted under the Agreement or other Project Approvals.

1.9 Annual household income means the combined gross income for all adult persons living in a Residential Unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor.

1.10 Approved Sites has the meaning set forth in Section 3.2.1 hereof.

1.11 Area Median Income means the median income for households in Napa County, as established and periodically amended by HUD pursuant to Section 8 of the United States Housing Act of 1937, with adjustments for actual household size or Assumed Household Size as specified in this Affordable Housing Plan.

1.12 Assumed Household Size means one person in a studio unit, and for non-studio units, the total number of bedrooms multiplied by 1.5.

1.13 Commence Construction or Commencement of Construction means, for purposes of this Affordable Housing Plan, commencement of excavation for or commencement of structural foundations for a Residential Project.

1.14 Completed means, for purposes of this Affordable Housing Plan, completion of all Project Infrastructure required by City in order to enable a Qualified Housing Developer to obtain a building permit to Commence Construction and upon the completion of construction, to obtain a permanent certificate of occupancy for the Affordable Housing Project, subject only to (i) satisfaction of any conditions related to subdivision and completion of all improvement work required under the applicable Subsequent Approvals for the Developable

Affordable Parcel (other than any Project Infrastructure obligation within the responsibility of Landowner); (ii) submittal of building plans to the City for approval; and (iii) payment of all applicable Processing Fees.

1.15 Conveyance Agreement means an agreement between the City and the Qualified Housing Developer which specifies the terms by which the City will convey the Developable Affordable Parcel to the Qualified Housing Developer, which shall be in substantially the form of the draft Conveyance Agreement attached to this Affordable Housing Plan as Attachment B.

1.16 Costa-Hawkins Act has the meaning set forth in Section 6 hereof.

1.17 Deferred Project Infrastructure means items of Project Infrastructure related to the applicable Developable Affordable Parcel consisting of (i) final, primarily behind the curb, right-of-way improvements, including, sidewalks, light fixtures, street furniture, landscaping, irrigation and drainage, and driveway cuts, and (ii) utility laterals serving the applicable Developable Affordable Parcel, including storm, sewer, water, reclaimed water, dry utilities, and joint trench as necessary to provide operable electrical, gas, phone and cable, and utility boxes.

1.18 Developable Affordable Parcels means an Approved Site that is a Residential Project building site to be prepared by Landowner and conveyed to the City for subsequent conveyance to a Qualified Housing Developer for the development of Affordable Homes that complies with all of the following:

1.18.1 The building site has been environmentally remediated to a standard sufficient to allow for residential development on the site. Environmental remediation shall be evidenced by a no further action letter or similar letter from the applicable regulatory entity stating that the building site is appropriate for residential use.

1.18.2 The building site has been rough graded in accordance with the grading plans approved by the City;

1.18.3 A final subdivision map for conveyance and financing of the building site as a separate legal parcel has been recorded in the Official Records of the County of Napa.

1.18.4 Landowner has Completed all Project Infrastructure applicable to the building site (with the exception of any Deferred Project Infrastructure which shall be governed by the procedures of Section 3.8 hereof), or Landowner's obligation to Complete such Project Infrastructure is covered in a subdivision or other separate improvement agreement governing the applicable Project Infrastructure (including any Deferred Project Infrastructure) in which (i) Landowner is obligated to Complete the applicable Project Infrastructure (other than any applicable Deferred Project Infrastructure) on the earlier of (A) the date that the Qualified Housing Developer Commences Construction of the Affordable Housing Project provided such date is not less than one hundred eighty (180) days after Landowner receives written notice from the Qualified Housing Developer of the date that the Qualified Housing Developer intends to Commence Construction of the Affordable Housing Project, or (B) two (2) years from the

recording of the final subdivision map referenced in Section 1.17.3 above; and (ii) Landowner's obligations to Complete the Project Infrastructure and Deferred Project Infrastructure within the timeframes required under the subdivision or other separate improvement agreement have been Adequately Secured.

1.19 For-Rent or Rental Residential Unit means a Residential Unit which is not a For-Sale Residential Unit.

1.20 For-Sale Residential Unit means a Residential Unit which is intended to be offered for sale.

1.21 HCD means the California Department of Housing and Community Development.

1.22 Housing Contribution has the meaning set forth in Section 5 hereof.

1.23 HUD means the United States Department of Housing and Urban Development.

1.24 Initial Financing Plan means the financing plan for the construction of all of the Affordable Homes to be developed by the Qualified Housing Developer in consultation with the Landowner and the City as described in Section 3.4.

1.25 Low Income Household means a household with an annual household income which does not exceed eighty percent (80%) of Area Median Income, adjusted for actual household size.

1.27 Low Income Unit means a For-Rent Residential Unit which is available to and occupied by Low Income Households and rented at an Affordable Housing Cost for Low Income Households.

1.28 Market Rate or Market Rate Residential Unit means a Residential Unit that is not a Low Income Unit, Very Low Income Unit or Moderate Income Unit.

1.29 Moderate-Income Household means a household with an annual household income that does not exceed one hundred twenty percent (120%) of Area Median Income, adjusted for actual household size.

1.30 Moderate Income Regulatory Agreement means an agreement between the City and a Residential Project developer to be recorded against the Moderate Income Units to ensure that the Moderate Income Units are sold or rented at an Affordable Housing Cost to Moderate Income Households, in a form to be approved by the City, as described in Section 4.1.1 of this Affordable Housing Plan.

1.31 Moderate Income Unit means a For-Sale Residential Unit or a For-Rent Residential Unit which is available to and occupied by Moderate Income Households and sold or rented at an Affordable Housing Cost for Moderate Income Households.

1.32 Project Financing Plan means the financing plan for each Affordable Housing Project to be prepared by the Qualified Housing Developer and submitted to the City for approval in accordance with the Conveyance Agreement.

1.33 Qualified Housing Developer means organizations, including governmental or quasi-governmental agencies, nonprofits and limited partnerships, with the financial capacity and experience and a proven history of developing Affordable Homes consistent with the character and quality of the Residential Projects, the Development Agreement and this Affordable Housing Plan, as determined by the City. The City has approved MidPen Housing Corporation as a Qualified Housing Developer.

1.34 [Intentionally omitted]

1.35 Residential Project means a Project containing Residential Units and may also contain other uses permitted under the Development Agreement and the Project Approvals.

1.36 Residential Unit means a building or portion of a building including one or more rooms which is designed or used as a residence for one household with facilities for living, sleeping, cooking, dining and sanitation and designed for occupancy for 32 consecutive days or more.

1.37 Site Selection Process has the meaning set forth in Section 3.3 hereof.

1.38 Title Defects has the meaning set forth in Section 3.5 hereof.

1.39 Utility Allowance means a utility allowance based on the utility allowance schedule published by the Housing Authority of the City of Napa or the California Tax Credit Allocation Commission.

1.40 Very Low Income Household means a household with an annual household income which does not exceed fifty percent (50%) of Area Median Income, adjusted for actual household size.

1.41 Very Low Income Unit means a For-Rent Residential Unit which is available to and occupied by Very Low Income Households and rented at an Affordable Housing Cost for Very Low Income Households.

2. AFFORDABLE HOUSING OBLIGATIONS.

A total of twenty percent (20%) of all Residential Units developed on the Property shall be affordable to Very Low Income Households, Low Income Households and Moderate Income Households. The Affordable Homes will be built on two Developable Affordable Parcels conveyed by the Landowner to the City that are sufficient, as determined by the City, to accommodate one hundred and forty (140) Affordable Homes in compliance with all applicable local and state codes and regulations, and City will in turn convey the Developable Affordable Parcels to a Qualified Housing Developer, in accordance with Section 3 hereof, who would be responsible for developing the Affordable Homes. Except as otherwise provided herein, Landowner will have no obligations related to the construction of the Affordable Homes

beyond the land dedication. As described in this Affordable Housing Plan, one hundred and forty (140) Affordable Homes will be developed and at least seventy (70) of the Affordable Homes will be Affordable to Very Low Income Households, with the remaining Affordable Homes Affordable to Low Income Households. In addition to the Affordable Homes, Landowner shall develop the greater of forty four (44) or six and six-tenths of one percent (6.6%) of the Market Rate Residential Units as Moderate Income Units Affordable to Moderate-Income Households as described in Section 4 of this Affordable Housing Plan. For example, for 300 Market Residential Units, at 6.6%, 20 Moderate Income Units would be provided, for a total of 320 Market Rate and Moderate Income Units. In addition, Landowner is required to make a Housing Contribution to the City in the amount of One Million Dollars (\$1,000,000) to be deposited by the City in a separate designated fund and used in accordance with the terms of Section 5 of this Affordable Housing Plan. In addition, Landowner shall pay to City, for all non-residential development on the Property except for development of a hotel on Parcel E, the amount of the County's Non-Residential Affordable Housing Impact Fees that would be due for such development if the Property had remained in the County's jurisdiction as provided in Section 5.2 of this Affordable Housing Plan. For development of a hotel on Parcel E, Landowner shall pay the amount of the City's Non-Residential Affordable Housing Impact Fee, subject to the provisions of Section 8.3 of the Agreement, as provided in Section 5.2 of this Affordable Housing Plan.

3. AFFORDABLE HOUSING LAND CONVEYANCE.

3.1 Affordable Housing Parcel Conveyance. Landowner shall convey to the City, at no cost to the City, two Developable Affordable Parcels which have been determined by the City to be of sufficient size and physical characteristics to accommodate the development of one hundred and forty (140) Affordable Homes in compliance with all applicable local and state codes and regulations, as required by this Affordable Housing Plan. Landowner shall convey a Developable Affordable Parcel in Phase One sufficient for the intended development of a minimum of seventy (70) Affordable Homes. Landowner shall convey a Developable Affordable Parcel in Phase Two sufficient for the intended development of the remaining required Affordable Homes. The City will convey the Developable Affordable Parcels, at no cost, to Qualified Housing Developers in accordance with the Conveyance Agreement. City agrees that the Developable Affordable Parcels may be used only for the construction of Affordable Homes as described in this Affordable Housing Plan.

3.2 Approved Sites. It is contemplated that Landowner will satisfy its obligation to convey two Developable Affordable Parcels to the City for development of the Affordable Homes in accordance with Section 3.1 of this Affordable Housing Plan by Completing all applicable Project Infrastructure (with the exception of any Deferred Project Infrastructure which shall be governed by the procedures of Section 3.8 hereof), or by entering into a secured improvement agreement in a form acceptable to the City to provide the Project Infrastructure, and by conveying the Developable Affordable Parcels selected in accordance with the procedures of Section 3.2 and Section 3.3 hereof.

3.2.1 Approved Sites. Landowner has selected and the City has approved Parcel 23 (Phase One) and Parcel 1 (Phase Two) as shown on the Land Use Plan, Exhibit G to the Agreement, (each an “**Approved Site**” and collectively, the “**Approved Sites**”)

as the parcels for development of the Affordable Homes and which Landowner will prepare as Developable Affordable Parcels for conveyance to the City in accordance with Sections 1.17 and 3.1 above. The Approved Sites are more particularly described on the Master Map.

3.2.2 Substitution or Modification of Approved Site. Prior to, or in connection with, Landowner's submittal of a Final Map that includes an Approved Site, Landowner may substitute another parcel for an Approved Site, or modify or substitute an Approved Site in accordance with Section 3.3 below. For purposes of the Final Map, a change in an Approved Site approved in accordance with this Affordable Housing Plan shall be considered in substantial conformance with the Master Map.

3.3 Site Selection Process. Landowner and the City shall comply with the following procedures (the "**Site Selection Process**") to determine any modification, reconfiguration, relocation or substitution of an Approved Site.

3.3.1 Criteria. A parcel (except as provided herein) proposed by Landowner to be modified, reconfigured, relocated or substituted for an Approved Site must meet the following criteria unless explicitly waived in writing by the City:

(i) Size. Be of sufficient size to accommodate the same number of Affordable Homes as the Approved Site taking into account the physical characteristics of the parcel and assuming a minimum density of twenty (20) units per acre.

(ii) Dimensions. Parcel dimensions shall be generally similar in shape to lots designated for Market Rate Residential Units with a similar configuration.

(iii) Frontages. Have a minimum of one (1) frontage (which may include an alleyway) that provides immediate vehicular access and immediate pedestrian access to a publicly accessible walkway or right of way.

(iv) Fiscal Impact. Not have a negative impact on the reasonably anticipated or proposed financing for the development of Affordable Homes on the parcel when compared to the Approved Site.

(v) Dispersal of Affordable Units, Timing and Location. Maintains the overall balance of providing Affordable Homes with access to transit, proximity to parks and other public amenities and that are dispersed throughout the Property, integrates the location of the Affordable Homes and the Market Rate Residential Units, and generally maintains the timing and proportionality of Affordable Homes and the Market Rate and Moderate Income Units relative to the Phasing Plan.

(vi) Site Conditions. Should not result in a parcel that is more difficult or expensive to develop (i.e., sites that include the need for extensive retaining walls, subsurface improvements, ongoing monitoring responsibilities, or that cannot accommodate the contemplated parking or common areas).

(vii) Project Infrastructure. Has or will have Completed Project Infrastructure (other than the Deferred Project Infrastructure, including as may be provided in a

secured improvement agreement), access, and utility connections that are sufficient to support the proposed Affordable Housing Project at Commencement of Construction of the Affordable Housing Project.

(viii) Other Matters. The City may consider such additional or unique matters as may arise during the course of the development of the Project.

3.3.2 City Agreement. Within thirty (30) days after Landowner has provided the information in Subsection 3.3.1 above, the City shall confirm in writing its agreement, such agreement not to be unreasonably withheld, that the proposed parcel meets the criteria of this Section. In the event the City determines that the proposed parcel does not meet the criteria in Subsection 3.3.1 above and the Parties are unable to resolve such disagreement within thirty (30) days thereafter, the Landowner shall not be allowed to modify or substitute the Approved Site with the proposed parcel.

3.4 Conditions to Conveyance of Developable Affordable Parcels. Landowner shall convey to the City one Developable Affordable Parcel in Phase One and one Developable Affordable Parcel in Phase Two when the following conditions have been met:

3.4.1 Qualified Housing Developer. Landowner has designated a Qualified Housing Developer approved by the City. As of the date of this Agreement, MidPen Housing Corporation has been so designated and approved to develop the Developable Affordable Parcels, subject to the possible designation of an alternative Qualified Housing Developer as may be necessary or appropriate.

3.4.2 Initial Financing Plan. The City shall have approved an Initial Financing Plan prepared by the Qualified Housing Developer, in consultation with the City and the Landowner, for the construction and operation of the Affordable Homes on each Developable Affordable Parcel. The Initial Financing Plan shall include a sources and uses breakdown of the costs of constructing the Affordable Homes and an operating proforma for the Affordable Homes for the applicable Developable Affordable Parcel. Such sources and uses breakdown and operating proforma shall reflect the Qualified Housing Developer's then current expectations for development costs and funding sources (including, without limitation, funding provided from the County's Affordable Housing Fund and low income housing tax credits, federal and state affordable housing funding sources and conventional loans). The City's review of the proposed Initial Financing Plan shall be solely to determine if, in the City's reasonable judgment, there are sufficient sources of funds available to construct and operate the Affordable Homes on the applicable Developable Affordable Parcel. The City shall either approve or disapprove the Initial Financing Plan in writing within thirty (30) days of receipt. If disapproved, the City shall give specific reasons for disapproval. If the Initial Financing Plan is disapproved, Landowner and Qualified Housing Developer may resubmit, and the City shall promptly review and approve or disapprove a revised Initial Financing Plan that addresses the reasons for disapproval.

3.4.3 Conveyance Agreement. The City and the Qualified Housing Developer have entered into a Conveyance Agreement for the Developable Affordable Parcel, which shall be substantially in the form attached hereto as Attachment B and which meets the requirements set forth in Section 3.6 below. The City and the Qualified Housing Developer

shall enter into the Conveyance Agreement no later than close of escrow for conveyance of each Developable Affordable Parcel to the City by Landowner.

3.4.4 City Approvals. The City has approved the Approved Site as meeting all of the standards necessary to accommodate a sufficient number of Affordable Homes as required by this Agreement and to create a Developable Affordable Parcel and, if determined necessary by City to meet the “all appropriate inquiries” standards under 40 CFR Part 312: Standards and Practice for All Appropriate Inquiries; Final Rule, the City has obtained on or before the effective date of the Conveyance Agreement a Phase 1 Environmental Site Assessment prepared in accordance with ASTM International’s E1527-13 standard, or such replacement standard as is adopted under federal rules to meet the all appropriate inquiry standard.

3.5 Conveyance of Developable Affordable Parcel to City.

3.5.1 Delivery of Affordable Housing Parcel Deed. Within thirty (30) days of satisfaction of the conditions set forth in Section 3.4, the Landowner shall, at no cost to the City, deliver to the escrow established by the Landowner and the City an Affordable Housing Parcel Deed substantially in the form attached hereto as Attachment A, conveying title to the City. Landowner shall be responsible for paying all escrow costs, transfer tax, recording fees and title insurance costs for a CLTA Owner’s Policy with reasonable endorsements.

3.5.2 Recordation of Conveyance Agreement. At close of escrow conveying the Developable Affordable Parcel to the City, a memorandum of the Conveyance Agreement shall be recorded against the Developable Affordable Parcel.

3.5.3 Delivery of Title. At close of escrow, the Landowner shall deliver insurable title to the Developable Affordable Parcel to the City free and clear of liens, encumbrances, leases or other rights or possession, actual possession by any person, covenants, easements, taxes, assessments and other limitations or title defects, and all claims to any of the foregoing (collectively, "**Title Defects**"), except:

- (i) applicable building and zoning laws and regulations;
- (ii) the Affordable Housing Parcel Deed;
- (iii) any lien for current taxes and assessments or taxes and assessments accruing subsequent to recordation of the Affordable Housing Parcel Deed;
- (iv) title exceptions reasonably approved by the City;
- (v) the liens of any financing approved by the City;
- (vi) the Development Agreement and other Project Approvals and Subsequent Approvals, including, without limitation, the final map recorded for the Developable Affordable Parcel and all matters disclosed therein; and

(vii) any environmental restrictions and covenants required to be recorded by the State of California Regional Water Quality Control Board (RWQCB) consistent with the approved environmental investigation and responses program, including the regional monitoring program (RMP).

The exceptions listed in (i) through (vii) are the "**Approved Title Exceptions.**"

3.5.4 Conveyance of Developable Affordable Parcel. The City, after obtaining title to the Developable Affordable Parcel shall subsequently convey the Developable Affordable Parcel to the Qualified Housing Developer in accordance with the terms of the Conveyance Agreement and subject only to the Approved Title Exceptions.

3.5.5 Applications for Tax Credit or Other Financing. Prior to the conveyance of a Developable Affordable Parcel to the City, the Landowner shall reasonably cooperate with the City's or Qualified Housing Developer's requests to be a co-applicant on any tax credit or other financing application for the financing of Affordable Homes on the Developable Affordable Parcel, provided that such reasonable cooperation shall be at no cost to the Landowner and the Landowner shall assume no liability whatsoever relating to or arising out of the Landowner being a co-applicant.

3.6 Requirements for Conveyance Agreement.

The Conveyance Agreement shall include the following:

3.6.1 Subsequent Approvals. The Qualified Housing Developer shall be obligated to obtain all applicable Subsequent Approvals in accordance with the Project Approvals, prior to conveyance of the Developable Affordable Parcel.

3.6.2 Project Financing Plan. The Qualified Housing Developer shall (A) have submitted or be required to submit an Initial Financing Plan, as described in Section 3.4.3 and (B) be required to submit to the City for City approval a Project Financing Plan prior to conveyance of the Developable Affordable Parcel. The Project Financing Plan shall be in substantial conformance with the guiding documents of the City Affordable Housing Impact Fee Fund, including specifically (a) the Policies and Procedures Manual (approved in 2010); (b) the Multifamily Rental Housing Transaction Underwriting Guidelines (approved in 2010); and (c) any updated versions of these documents or new guiding policies and documents that may be issued for the Affordable Housing Impact Fee Fund prior to the date for submission of the Project Financing Plan in the Conveyance Agreement. The Project Financing Plan shall include sources and uses breakdown of the costs of constructing the Affordable Homes on the Developable Affordable Parcel and an operating proforma for the Affordable Homes. Funding sources identified in the Project Financing Plan shall be based on evidence of preliminary funding commitments reasonably satisfactory to City. Notwithstanding the foregoing, if the Qualified Housing Developer is unable to provide preliminary commitments for sources of funds other than funding provided from the County's Affordable Housing Impact Fee Fund, the City in its sole discretion may nevertheless approve the Project Financing Plan based on information provided by the Qualified Housing Developer as to the feasibility of such identified sources not already committed and the City's own investigation as to the feasibility of obtaining such funding

sources, including competitiveness of the proposed development for such sources based on the then applicable scoring systems in place for such funding sources. The City shall either approve or disapprove the Project Financing Plan in writing within thirty (30) days of receipt. If disapproved, the City shall give specific reasons for disapproval. If the Project Financing Plan is disapproved, the Qualified Housing Developer may resubmit, and the City shall promptly review and approve or disapprove a revised Project Financing Plan that addresses the reasons for disapproval.

3.6.3 Affordable Home Requirements. The Qualified Housing Developer shall be obligated to provide to the City a breakdown of the number of Low Income Units and Very Low Income Units prior to conveyance of each Developable Affordable Parcel to the Qualified Housing Developer. No fewer than fifty percent (50%) of the Affordable Homes to be developed on each Developable Affordable Parcel shall be Very Low Income Units unless the number of Completed Very Low Income Units exceeds fifty percent (50%) of the total number of Affordable Homes Completed, in which event the Qualified Housing Developer may propose a lesser number of Very Low Income Units as long as the total number of Very Low Income Units Completed plus the number proposed is not less than fifty percent (50%) of the total number of Affordable Homes Completed and proposed.

3.6.4 Consistency. The Qualified Housing Developer shall be obligated to develop and construct the Affordable Housing Project in accordance with the applicable Project Approvals and Subsequent Approvals and to manage and operate the Affordable Homes consistent with the requirements of this Affordable Housing Plan.

3.6.5 Sources of Financing. Prior to conveyance of each Developable Affordable Parcel to the Qualified Housing Developer, the Qualified Housing Developer shall have secured the financing necessary for the development and operation of the Affordable Homes consistent with the approved Initial Financing Plan and, upon approval, the Project Financing Plan. If the Qualified Housing Developer is not able to obtain any source of financing that was identified in the approved Project Financing Plan, the Conveyance Agreement shall require the Qualified Housing Developer to submit to the City an updated Project Financing Plan showing alternative sources of funding and feasibility of obtaining such funding.

3.6.6 Regulatory Agreement. The Qualified Housing Developer shall be required to enter into a Regulatory Agreement for the Affordable Homes for the benefit of the City (which shall be binding on its successors and assigns) substantially in the form attached as Attachment C (“Affordable Homes Regulatory Agreement”). The Affordable Homes Regulatory Agreement shall require that the Affordable Homes be rented at an Affordable Housing Cost and occupied by Very Low Income Households and Low Income Households for a term of not less than fifty-five (55) years. The Affordable Homes Regulatory Agreement will be recorded against each Approved Site at the time of conveyance to the Qualified Housing Developer.

3.6.7 Performance Measures. The Conveyance Agreement will include performance measures that the Qualified Housing Developer is required to meet with regards to the development of the Affordable Homes and grant the City the right to terminate the Conveyance Agreement in the event the Qualified Housing Developer fails to meet the performance measures.

3.6.8 Right of Reverter. The Conveyance Agreement shall include a right of reverter for the benefit of the City that will provide the City the right to reacquire title to the Developable Affordable Parcel if the Qualified Housing Developer fails to construct the Affordable Homes in accordance with the terms and conditions of the Conveyance Agreement. If the City acquires the Developable Affordable Parcel pursuant to the right of reverter, the City shall take title subject to the Affordable Homes Regulatory Agreement and the conditions set forth in this Affordable Housing Plan and shall cause the development of the proposed Affordable Housing Project on the Developable Affordable Parcel consistent with the Project Approvals and Subsequent Approvals. If the City exercises its right of reverter and the Qualified Housing Developer has accepted a Deferred Infrastructure Liquidation Amount pursuant to Section 3.8 below and the Qualified Housing Developer has not installed the Deferred Project Infrastructure prior to the City's exercise of the right of reverter, the Qualified Housing Developer will be required to pay the Deferred Infrastructure Liquidation Amount to the City at time of transfer of Title to the Developable Affordable Parcel. If the City exercises the right of reverter and takes title to the Developable Affordable Parcel, the City shall also be entitled to an assignment of all plans, studies and other materials prepared by the Qualified Housing Developer related to the development of the Affordable Housing Project, provided the City and the Qualified Housing Developer are able to reach agreement on compensation to the Qualified Housing Developer for the costs incurred for the preparation of such plans and studies.

3.6.9 RESERVED.

3.6.10 Notice Prior to Construction. The Qualified Housing Developer shall be required to give the Landowner the Preliminary Development Notice required pursuant to Section 3.7 as well as a written Commencement Notice at least six (6) months prior to the date the Qualified Housing Developer intends to Commence Construction and to provide the Landowner with notice of any subsequent revision to Qualified Housing Developer's Commencement of Construction date in order to allow the Landowner sufficient time to coordinate and Complete the applicable Project Infrastructure (other than Deferred Project Infrastructure) required to provide access and utility service to the Developable Affordable Housing Parcel prior to Commencement of Construction.

3.6.11 Approved Site Maintenance. The Qualified Housing Developer shall agree to maintain the Approved Site in a safe and orderly condition, including by fencing it to prevent entry by the public.

3.6.12 Coordination Provisions. The Conveyance Agreement shall incorporate the provisions of Sections 3.7 and 3.8.

3.6.13 Other Requirements. Such other requirements as the City and the Qualified Housing Developer may mutually determine are necessary to meet the goals and objectives of this Affordable Housing Plan to ensure the development of the Affordable Homes.

3.7 Preliminary Development Notice.

3.7.1 Cooperation and Coordination Agreement. The planning, design and construction of the Affordable Housing Project and its associated Project Infrastructure and

Deferred Project Infrastructure required to provide minimum access and utility services for the Affordable Housing Project will require cooperation and coordination between Landowner and the Qualified Housing Developer, and coordination and cooperation will also be required of them with respect to the construction of other projects and Project Infrastructure that may, from time to time, also be concurrently under construction. The Qualified Housing Developer and Landowner shall agree to cooperate and to take all acts reasonably necessary to reduce conflicts between the Affordable Housing Project's development and its associated Project Infrastructure and the development of other portions of the Property and associated Project Infrastructure.

3.7.2 Preliminary Development Notice. The Qualified Housing Developer shall provide Landowner with a preliminary development notice at the earlier of (i) eighteen (18) months prior to its targeted date for Commencement of Construction on a Developable Affordable Parcel, or (ii) the date that Qualified Housing Developer submits its first application for tax credit financing to the California Tax Credit Committee (the "**Preliminary Development Notice**"). The Preliminary Development Notice shall include to the extent available, and if not then available, as soon thereafter as such information becomes available, the information reasonably required to prepare and coordinate approval of improvement plans, permits and agreements, including the Qualified Housing Developer's anticipated construction start date, preliminary construction schedule, description of the general location of buildings, parking areas, site access, schematic utility design, power loads, wet utility demands and sanitary discharge loads, and anticipated dates for completion of construction of the Affordable Housing Project, when Deferred Project Infrastructure, including utility hookups and public access, will be required. The Preliminary Development Notice shall be updated on regular intervals, but not less frequently than every three months.

3.7.3 Notice of Changes in Development Schedule; Good Faith Negotiations. The Qualified Housing Developer shall notify Landowner if at any time, or from time to time, its development plans, or changes thereto, are likely to require changes to the Project Infrastructure or Deferred Project Infrastructure, or to the noticed Completion dates thereof. The Qualified Housing Developer and Landowner shall agree to negotiate in good faith with respect to any amendments to such construction schedule as may be necessary or appropriate from time to time to enable Landowner to prepare and obtain approval of necessary improvement plans, and to obtain required permits and authorizations for any Project Infrastructure changes.

3.7.4 Project Infrastructure Improvement Plans. Landowner shall provide the Qualified Housing Developer with a reasonable opportunity (of not less than fourteen (14) days), to review and comment on draft improvement plans for Project Infrastructure and Deferred Project Infrastructure, provided that nothing herein shall require Landowner to delay preparation or approval of improvement plans or construction to accommodate the Qualified Housing Developer's schedule for design and construction, absent notice and request from the Qualified Housing Developer and consent thereto by Landowner. Upon conveyance of the Developable Affordable Parcel to the City, Landowner shall provide the City and the Qualified Housing Developer with a copy of the approved Project Infrastructure Improvement Plans applicable to the Developable Affordable Parcel and shall thereafter provide copies of any modifications thereto.

3.8 Coordination of Construction and Deferred Project Infrastructure.

3.8.1 Coordination of Construction Deferred Project Infrastructure. The Parties intend that Deferred Project Infrastructure related to a Developable Affordable Parcel will be completed by Landowner in coordination with the development of the Affordable Housing Project on the Developable Affordable Parcel . Landowner's obligation to Complete any Deferred Project Infrastructure will be secured by Adequate Security, and City shall cause the Qualified Housing Developer to provide Landowner with all access needed to Complete Deferred Project Infrastructure on the Developable Affordable Parcels. Landowner shall coordinate the construction of the Deferred Project Infrastructure with the construction of the Affordable Housing Project to ensure that (i) the Deferred Project Infrastructure (other than utility laterals serving the applicable Developable Affordable Parcel) is Completed at or before completion of the Affordable Housing Project, (ii) the utility laterals serving the applicable Developable Affordable Parcel are Completed in coordination with the construction of the Affordable Housing Project, and (iii) Landowner's work does not interfere with or obstruct the Qualified Housing Developer's work during such construction to the maximum extent reasonably feasible and that the Qualified Housing Developer's work similarly does not interfere with Landowner's work.

3.8.2 Landowner's Right to Commence and Complete Deferred Project Infrastructure. Notwithstanding the foregoing, if Landowner has Commenced the Project Infrastructure required to serve parcels adjacent to or in the same Phase and in the vicinity of an Developable Affordable Parcel, then Landowner shall have the right to Commence and Complete the Deferred Project Infrastructure related to that Developable Affordable Parcel (other than the utility laterals for that particular Approved Site) even though design, development or construction of the applicable Affordable Housing Project may not yet have Commenced to the same extent.

Landowner shall provide the Qualified Housing Developer and the City not less than ninety (90) days' notice of its intent to Commence the Deferred Project Infrastructure, and such right shall accrue unless (i) the City or the Qualified Housing Developer objects within thirty (30) days following the receipt of Landowner's notice, and (ii) the City or Qualified Housing Developer, as applicable, and the Landowner agree, within sixty (60) days following the objection, to a payment amount equal to Landowner's anticipated cost of completing some or all of the Deferred Project Infrastructure on the applicable Developable Affordable Parcel (the "**Deferred Infrastructure Liquidation Amount**"). The City, the Qualified Housing Developer, and the Landowner shall meet and confer in good faith during the 60-day period (or such longer period as may be agreed to by the City, the Qualified Housing Developer and the Landowner) to reach agreement on the Deferred Project Infrastructure Liquidation Amount. Landowner shall provide its estimate of such costs, based upon the Deferred Project Infrastructure to be completed and substantiated by qualified contractor bid(s) or estimates(s) specifying the quantity and cost to complete the Deferred Project Infrastructure. If the City, Qualified Housing Developer and the Landowner are able to reach agreement on the Deferred Infrastructure Liquidation Amount, then Landowner shall promptly pay this sum to the then current owner of the Developable Affordable Parcel, either the City or the Qualified Housing Developer, and thereafter (i) Landowner shall be released from any further obligation to construct that portion of the Deferred Project

Infrastructure for which Landowner has paid the Deferred Infrastructure Liquidation Amount, and (ii) the City shall release any associated Adequate Security.

If the City receives the Deferred Infrastructure Liquidation Amount, the City shall transfer the Deferred Infrastructure Liquidation Amount to the Qualified Housing Developer at time of the conveyance of the Developable Affordable Parcel. Upon receipt of the Deferred Infrastructure Liquidation Amount, the Qualified Housing Developer shall be responsible to construct the portion of the Deferred Project Infrastructure covered by the Deferred Infrastructure Liquidation Amount. If the City, Qualified Housing Developer and the Landowner are not able to reach agreement on the Deferred Infrastructure Liquidation Amount within the time frame set forth above, then Landowner shall proceed to install the Deferred Project Infrastructure related to the applicable Developable Affordable Parcel. The Parties agree that completion of the utility laterals and other components of Deferred Project Infrastructure on the Developable Affordable Parcel in advance of the design development or related construction of the Affordable Housing Project on a particular Developable Affordable Parcel may result in the need to move or replace all or part of said Deferred Project Infrastructure. In order to avoid unnecessary costs and duplication of work, in the event the Landowner elects to proceed and to install the Deferred Project Infrastructure serving a Developable Affordable Parcel prior to adequate design development or construction to define and locate said Deferred Project Infrastructure for the Affordable Housing Project, Landowner shall Complete all of the Deferred Project Infrastructure except for the utility laterals and any other components of Deferred Project Infrastructure for which Landowner does not have sufficient design information from the Qualified Housing Developer, and the Landowner shall pay to the City or the Qualified Housing Developer a Deferred Infrastructure Liquidation Amount equal to the amount determined by Landowner and Approved by the City and the Qualified Housing Developer as the reasonably estimated cost of installing the utility lateral(s) or other deferred components of Deferred Project Infrastructure upon Completion of the remaining Deferred Project Infrastructure and upon such payment (i) Landowner shall be released from any obligation to Complete such Deferred Project Infrastructure and (ii) the City shall release any associated Adequate Security.

3.8.3 Payment in Lieu of Deferred Project Infrastructure Obligation.

Landowner and the Qualified Housing Developer shall also have the right to request at any time after conveyance of a Developable Affordable Parcel for the Landowner to pay the Deferred Infrastructure Liquidation Amount in lieu of Landowner's obligation to provide the Deferred Project Infrastructure for such Developable Affordable Parcel. If the City, the Qualified Housing Developer, and the Landowner are able to agree upon the Deferred Infrastructure Liquidation Amount as set forth in subsection 3.8.2 above, then Landowner shall pay this amount to the City or the Qualified Housing Developer, as applicable, at such time and thereafter (i) Landowner shall be released from the obligation to provide the Deferred Project Infrastructure for which the Deferred Infrastructure Liquidation Amount has been paid and (ii) the City shall release any associated Adequate Security. The City shall transfer the Deferred Infrastructure Liquidation Amount to the Qualified Housing Developer upon conveyance of the Developable Affordable Parcel to the Qualified Housing Developer. The Qualified Housing Developer shall use such funds for the Deferred Project Infrastructure, and for no other purpose, as set forth in subsection 3.8.2 above. If the City and the Landowner are not able to agree upon the Deferred Infrastructure Liquidation Amount, then there will be no action or payment on the Deferred Project Infrastructure unless and until Landowner provides notice to the Qualified Housing

Developer and the City pursuant to subsection 3.8.2 above of its intent to commence the Deferred Project Infrastructure on a particular Developable Affordable Parcel or Landowner is otherwise required to commence and Complete the Deferred Project Infrastructure in accordance with this Agreement.

3.8.4 Schedule Adjustments. Landowner's schedule under this Affordable Housing Plan to deliver Project Infrastructure and Deferred Project Infrastructure required to service an Affordable Housing Project shall be subject to modification if and to the extent changes in the type, nature, locations, amount, cost or phasing of Project Infrastructure or Deferred Project Infrastructure are required to respond to a Qualified Housing Developer's request or to accommodate changes in the Affordable Housing Project from those assumed in the previously approved improvement plans and agreement. Landowner shall have the right to reject such proposed Project Infrastructure changes if it would materially and adversely: (i) delay (unless such delay is accepted by the Qualified Housing Developer) or increase the costs of Project Infrastructure for the Affordable Housing Project; (ii) increase the costs to other Residential Projects or their associated Project Infrastructure; or (iii) delay or interfere with actual construction of such other Project Infrastructure or such other Residential Projects. If Landowner believes any adjustment to the Project Infrastructure or Deferred Project Infrastructure Completion dates related to the Affordable Housing Project is required, it shall provide City and the Qualified Housing Developer with notice and the detailed reasons therefor, and the Parties shall thereafter proceed in good faith to attempt to mutually agree upon a revised schedule, provided that the Landowner shall have the right to modify the schedule as necessary to respond to such materially changed circumstances or information related to the design and development of the Affordable Housing Project.

3.8.5 Completion Delay. Any delay in Completing any Project Infrastructure resulting from either a Force Majeure Delay or Affordable Housing Project specific infrastructure changes as described in Section 3.8.4 above shall not constitute a default by Landowner under this Agreement, nor shall Landowner's failure to Complete any Project Infrastructure (or Deferred Project Infrastructure) on or before the Project Infrastructure or Deferred Project Infrastructure Completion dates resulting from a Force Majeure Delay or project specific infrastructure changes described in Section 3.8.4 above constitute a default by Landowner under this Agreement, except to the extent that such delay is the result of the gross negligence or willful misconduct of Landowner or any contractor or agent of Landowner.

3.8.6 Performance. During the construction of Project Infrastructure and Deferred Project Infrastructure, Landowner shall deliver status reports to the City and the Qualified Housing Developer advising of the status and progress of the preparation of improvement plans and the construction of the Project Infrastructure (or Deferred Project Infrastructure), including a report of any significant delays in the progress of such construction and whether such delays are due to Force Majeure Delay or Affordable Housing Project specific infrastructure changes described in Section 3.8.4, and updating, as necessary, the estimated Project Infrastructure Completion date. Notwithstanding the foregoing provisions of this Affordable Housing Plan to the contrary, in no event shall Landowner be in default of its obligation to Complete the Project Infrastructure (or Deferred Project Infrastructure) hereunder unless Landowner's failure materially and adversely interferes with the Qualified Housing Developer's obtaining construction financing, permits and/or approvals for development of the

Affordable Housing Project, or the construction, use or occupancy of the Affordable Housing Project thereon, materially increases the Qualified Housing Developer's costs with respect to such Affordable Housing Project, or materially delays the Qualified Housing Developer's construction or occupancy of the Affordable Housing Project (when compared to the development schedule, including any updates provided or agreed upon in good faith), and such failure continues for more than forty-five (45) days following Landowner's receipt of written notice thereof from the Qualified Housing Developer; provided, however, that if more than forty-five (45) days is reasonably required to sufficiently complete the Project Infrastructure (or Deferred Project Infrastructure) to eliminate the interference with or delay to the Qualified Housing Developer's obtaining construction permits or approvals for development of the Affordable Housing Project or its construction, use or occupancy of the Affordable Housing Project, then Landowner will not be in default hereunder so long as: (i) temporary infrastructure is available to eliminate such interference or delay, including any interference or delay in the Qualified Housing Developer's obtaining construction permits or approvals for the Affordable Housing Project or, if applicable, a certificate of occupancy, and Landowner provides such temporary infrastructure within thirty (30) days following Landowner's receipt of the Qualified Housing Developer's notice described above; (ii) Landowner continues to so provide such temporary infrastructure until the completion of the Project Infrastructure (or Deferred Project Infrastructure); and (iii) Landowner diligently pursues completion of the Project Infrastructure (or Deferred Project Infrastructure). The Qualified Housing Developer's notice to Landowner of Landowner's failure to complete the Project Infrastructure (or Deferred Project Infrastructure) must specify, in reasonable detail, the basis for the Qualified Housing Developer's assertion that Landowner's failure to complete the Project Infrastructure (or Deferred Project Infrastructure) constitutes a default in Landowner's obligations as described above.

3.8.7 Post-Completion Changes to Project Infrastructure. If the Project Infrastructure (or Deferred Project Infrastructure) required to service an Affordable Housing Project has been completed at the time a change is requested by the Qualified Housing Developer or City with respect thereto to accommodate a change to or design of the Affordable Housing Project, then Landowner may, at its sole option, require the requesting Party to construct or to pay the costs associated with such Project Infrastructure changes, including, without limitation, the costs of obtaining necessary permits, design work, approvals or other authorizations, and providing all supplemental Security. Any such additional Project Infrastructure work shall include replacement or restoration of previously completed Project Infrastructure.

4. MODERATE INCOME HOUSING PROGRAM.

4.1 Moderate Income Unit Requirements.

4.1.1 Development of Moderate Income Units. As part of Landowner's obligation to provide 20% Affordable residential units, the Landowner shall construct, or cause to be constructed, up to the greater of forty-four (44) Moderate Income Units or Moderate Income Units that total six and six-tenths of one percent (6.6%) of the total number of Market Rate Residential Units in the Project (assuming maximum build-out of 755 Market Rate Residential Units this would be equivalent to fifty (50) Moderate Income Units) on the Property, which units will be disbursed throughout the Project and included within the Market-Rate

Residential Projects. The Moderate Income Units may be either For-Sale or For-Rent Residential Units at the Landowner's discretion. The Moderate Income Units shall be constructed in each Phase in which Residential Units are constructed such that no fewer than six and six-tenths of one percent (6.6%) of the Residential Units in each Phase shall be Moderate Income Units. Landowner shall have discretion to determine the exact number of Moderate Income Units to be developed in each Market Rate Residential Project, provided that the required number of Moderate Income Units is provided in each Phase. Landowner shall provide the City with written notice, prior to the conveyance of the first Market Rate Residential Project parcel in each Phase to a Residential Project developer, of the Market Rate Residential Projects designated or anticipated to be designated to include Moderate Income Units. Landowner may update the designation of Market Rate Residential Projects to include Moderate Income Units at any time as long as the designation in each Phase meets the required number of Moderate Income Units for that Phase.

Landowner shall impose the requirement to provide Moderate Income Units in the Market Rate Residential Projects designated by Landowner to include Moderate Income Units upon Residential Project developers at the time of sale or transfer of the parcels so designated (each a "Moderate Income Parcel") and an Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (a "**Moderate Income Regulatory Agreement**"), in a form to be approved by the City, shall be recorded against each Moderate Income Parcel at time of conveyance to a Residential Project developer. If the Moderate Income Units to be constructed on a Moderate Income Parcel will be Rental Residential Units, the Moderate Income Regulatory Agreement shall require that the Moderate Income Units be rented at an Affordable Housing Cost and occupied by Moderate Income Households for a term of fifty-five (55) years. If the Moderate Income Units to be constructed on a Moderate Income Parcel will be For-Sale Residential Units, the Moderate Income Regulatory Agreement shall require that the Moderate Income Units be sold at an Affordable Housing Cost and occupied by Moderate Income Households for a term of forty-five (45) years. After Phase One, Landowner shall not be entitled to issuance of building permits for development of residential or commercial private development in Phase Two or Phase Three of the Project (except for the proposed hotel on Block E or other development in the Industrial Zoning District) unless the number of building permits issued for Moderate Income Units to date meets the proportion of Moderate Income Units required pursuant to this Section 4.1 in proportion to the number of Market-Rate Residential Units developed to-date.

4.1.2 Reserved

4.1.3 Comparability. Moderate Income Units shall be dispersed throughout each Residential Development Phase and shall include a range of sizes generally reflecting the range of sizes of Market Rate Residential Units. Moderate Income Units and Market Rate Residential Units in the same Residential Project with the same bedroom count shall be substantially similar in size, exterior appearance and overall quality of construction. Moderate Income Units' interior features need not be the same as or equivalent to those of the Market Rate Residential Units, as long as such features are of good quality.

4.1.4 Marketing Guidelines. Prior to marketing a Moderate Income Unit, Landowner shall submit to the City: (i) the marketing plan that gives a priority to

households who work in Napa County; (ii) the proposed rental charges and purchase prices for such Moderate Income Units that are consistent with the requirements of this Affordable Housing Plan; (iii) proposed eligibility and income-qualifications of renters and purchasers. The City shall review and approve or disapprove the marketing plan, such approval not to be unreasonably withheld, within thirty (30) days of receipt. If the City disapproves the marketing plan, it shall state its reasons for such disapproval in writing and with specificity. The Landowner shall resubmit a revised marketing plan addressing the reasons for disapproval prior to marketing the Moderate Income Units.

4.2 Congregate Care Retirement Community. In addition to the Market Rate Residential Units, the Landowner may develop on the Property a continuing care retirement community (CCRC) facility of up to 150 suites. If the Landowner develops such a facility, Landowner shall pay to the City, prior to the issuance of a building permit for the facility, the amount that would be due under the County's Affordable Housing Impact Fee Ordinance (County Code of Ordinances Section 18.) for the congregate care retirement community, calculated on the square footage of congregate living or assisted living dwelling units (exclusive of common areas and all other areas) located within the congregate care retirement community facility. Landowner's payment to the City of the amount of the County's Affordable Housing Impact Fee for the CCRC facility shall be in lieu of and full satisfaction of the City's Affordable Housing Impact Fee for such facility. Any impact fee paid by the Landowner in connection with the CCRC shall be used to assist the development of the Affordable Homes on the Property by the Qualified Housing Developer.

4.3 Marketing of the Market Rate Residential Units. The Landowner recognizes that the provision of the Project Approvals was predicated in part on the need to provide housing opportunities within the County for persons employed within the County. In order to maximize the opportunity for persons employed within the County to purchase or rent the Market Rate Residential Units in the Project, the Landowner, prior to the first sale or rental of a Market Rate Residential Unit, shall develop and submit to the City for its approval an outreach and marketing plan for the Market Rate Residential Units that will focus marketing efforts on persons employed within the County. The marketing plan will include preferences for those who currently live or work in Napa County, to the extent reasonably practicable and consistent with commercially reasonable criteria. The City will approve or disapprove the marketing plan within thirty (30) days of submission, such approval not to be unreasonably withheld. The Landowner shall implement the City -approved marketing plan, as it may be amended from time to time, when marketing any Market Rate Residential Units and will require any Residential Project developers developing Residential Units to do so as well.

4.4 Landowner's Obligation. Landowner's only obligations with respect to any affordable housing requirement(s) for the Property are to convey the Developable Affordable Parcels and provide Project Infrastructure (and Deferred Project Infrastructure) as required herein at no cost to the City and Qualified Housing Developer, pay the One Million Dollar Housing Contribution (as described in Section 5 below of this Affordable Housing Plan), to include or require the Residential Project developers to include the Moderate Income Units in the Market Rate Residential Developments in accordance with Section 4 of this Affordable Housing Plan, and to market the Moderate Income Units and the Market Rate Residential Units as required under Section 4 of this Affordable Housing Plan, in the condition and in the manner

described herein. Landowner will be obligated to convey the Developable Affordable Parcels to the City whether or not a Qualified Housing Developer Commences Construction of Affordable Homes or Completes Construction and regardless of how many Affordable Homes are actually built by the Qualified Housing Developers. Landowner shall not be entitled to issuance of building permits for development of residential or commercial private development in a subsequent Phase of the Project (except for the proposed hotel on Block E or other development in the Industrial Zoning District) unless in the previous Phase Landowner is in compliance with its obligations to date under this Affordable Housing Plan, including, where required or not otherwise conditioned, with respect to conveyance of a Developable Affordable Parcel to the City in accordance with and subject to Section 3, which is, among other things, subject to a City approved Initial Financing Plan, and Landowner has Completed the minimum Project Infrastructure (except for Deferred Project Infrastructure) required to serve such Approved Site in the prior Phase, as and to the extent provided herein.

5. LANDOWNER MILLION DOLLAR HOUSING CONTRIBUTION; NON-RESIDENTIAL AFFORDABLE HOUSING FEE; USE OF AFFORDABLE HOUSING IMPACT FEES.

5.1 Housing Contribution. As described in the Agreement, Landowner shall pay to the City One Million Dollars (\$1,000,000) as a Housing Contribution in accordance with this Section 5. The City shall deposit Housing Contribution payments received into a separate designated fund and shall use all such amounts to provide assistance to homebuyers whose households include at least one member who works in Napa County for purchase of Market Rate Residential Units and the Moderate Income Units developed as part of the Project. Landowner shall pay City Five Hundred Thousand Dollars (\$500,000) prior to the issuance of the first building permit for any Residential Project in Phase One. Landowner shall pay City an additional Two Hundred Fifty Thousand Dollars (\$250,000) prior to issuance of the first building permit for any Residential Project in Phase Two. Landowner shall pay City the final Two Hundred Fifty Thousand Dollars (\$250,000) prior to issuance of the first building permit for any Residential Project in Phase Three. Guidelines for use of these Housing Contribution payments will be submitted by the City to the County Housing Director, and City will in good faith consider County's comments and recommendations regarding the City's use of these funds, to ensure that the program serves the same overall purpose as the County's Proximity Housing Program to provide homeownership opportunities for the County's Workforce.

5.2 Non-Residential Affordable Housing Fee. As set forth in Section 8.2 of the Agreement, Landowner must pay directly to the City the amount of the County's Non-Residential Affordable Housing Impact Fee in connection with the issuance of all non-residential building permits issued for development of the Property, provided, however, that Landowner shall pay the either the County's or the City's Non-Residential Affordable Housing Impact Fee (but not both) to the City in connection with the issuance of a non-residential building permit for a hotel on Parcel E, in accordance with the provisions of Section 8.3 of the Agreement. Landowner's payment to the City of the amount of the County's Non-Residential Affordable Housing Impact Fee for non-residential building permits shall be in lieu of and full satisfaction of City's Non-Residential Affordable Housing Impact Fee for such non-residential development.

5.3 Use of Affordable Housing Impact Fees Generated by Project. The City shall use all Affordable Housing Impact Fees generated from development on the Property only for purposes of providing funding assistance to the Qualified Housing Developer for the development of the Affordable Homes through the date that Commencement of Construction (as defined in the Affordable Housing Plan) of one hundred and forty (140) Affordable Homes has occurred. Thereafter, any Affordable Housing Impact Fees generated from development on the Property shall be used to fund the development of the Moderate Income Homes on the Property or to assist Moderate Income Households who work in the County of Napa to rent or purchase the Moderate Income Homes. Notwithstanding the foregoing, the City's obligation to use Affordable Housing Impact Fees as described in this Section 3.1 shall terminate on the first date that both (a) Commencement of Construction of 140 Affordable Homes occurred, and (b) the City has issued Certificates of Occupancy for forty-five (45) deed restricted Moderate Income Homes on the Property.

6. NON-APPLICABILITY OF COSTA HAWKINS ACT

The Parties understand and agree that the Costa-Hawkins Rental Housing Act (California Civil Code sections 1954.50 et seq.; the "Costa-Hawkins Act") does not and in no way shall limit or otherwise affect the restriction of rental charges for the Affordable Homes or the Moderate Income Units developed pursuant to this Affordable Housing Plan. The Agreement falls within an express exception to the Costa-Hawkins Act because the Agreement is a contract with a public entity in consideration for a direct financial contribution and other forms of assistance specified in Chapter 4.3 (commencing with section 65915) of Division 1 of Title 7 of the California Government Code. Accordingly, Landowner, on behalf of itself and all of its successors and assigns, including all Residential Project developers, agrees not to challenge, and expressly waives, now and forever, any and all rights to challenge, Landowner's obligations set forth in this Affordable Housing Plan related to Moderate Income Units, under the Costa-Hawkins Act, as the same may be amended or supplanted from time to time. Landowner shall include the following language, in substantially the following form, in all agreements it enters into with Residential Project developers:

"The Development Agreement (including the Affordable Housing Plan) by and between the City of Napa and Napa Redevelopment Partners, LLC, dated _____ and recorded _____, at _____ implements County of Napa policies and City of Napa policies and includes regulatory concessions, incentives and significant public investment in the Napa Pipe Project. These public contributions result in identifiable, financially sufficient and actual cost reductions for the benefit of Landowner and Residential Project developer, as contemplated by California Government Code section 65915. In light of the City's authority under Government Code Section 53395.3 and in consideration of the direct financial contribution and other forms of public assistance described above, the Parties understand and agree that the Costa-Hawkins Act does not and shall not apply to the Moderate Income Units as defined in the Development Agreement developed at the Napa Pipe Project Site."

The Parties understand and agree that neither the City nor Landowner would be willing to enter into this Agreement, without the agreement and waivers as set forth in this Article 6.

ATTACHMENT A: Affordable Housing Project Deed

ATTACHMENT B: Form of Conveyance Agreement

ATTACHMENT C: Form of Regulatory Agreement