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**SECOND RESTATED DEVELOPMENT AGREEMENT  
FOR THE BELLA VISTA SUBDIVISION PROJECT**

by and between

**COUNTY OF MENDOCINO**

and

**RANCHO YOKAYO, LP**

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**SECOND RESTATED DEVELOPMENT AGREEMENT  
FOR THE BELLA VISTA SUBDIVISION PROJECT**

by and between  
**COUNTY OF MENDOCINO**  
and  
**RANCHO YOKAYO, LP**

This Second Restated Development Agreement ("Second Restated Development Agreement" or "Agreement") is the Third Amendment to the Garden's Gate Development Agreement and is entered into as of [Insert Approval Date], by and between the COUNTY OF MENDOCINO, a political subdivision of the State of California ("County"), and RANCHO YOKAYO, LP, a California limited partnership company ("Landowner"). County and Landowner are hereinafter collectively referred to as the "Parties" and singularly as "Party".

The original Development Agreement was entered into between the County and Ukiah Land, LLC, a predecessor owner to the Landowner, and approved on October 6, 2009, and amended by a First Amendment on April 27, 2010 (the "First Amendment"). County approved a Restated Development Agreement with Landowner on April 11, 2023, which superseded the previous Development Agreement and First Amendment, except as it pertains to the portion of the project known as "Tract 261" or "Oak Knoll, Unit One" (hereinafter referred to as "Tract 261") for which a Parcel Map has been recorded.

This Second Restated Development Agreement amends, replaces and supersedes the Restated Development Agreement in its entirety. This Second Restated Development Agreement does not affect the provisions of the Development Agreement and First Amendment as they pertain to Tract 261, for which a Parcel Map has been recorded.

**RECITALS**

**A. Authorization.** To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864, et seq. (the "Development Agreement Statute"), which authorizes County and any person having a legal or equitable interest in the real property to enter into a development agreement, establishing certain development rights in the Property which is the subject of the development project application.

**B. Property.** The predecessor in interest to the Landowner was Ukiah Land, LLC, a California limited liability company ("Predecessor in Interest to Landowner"). Landowner holds a legal or equitable interest in certain real property located in Mendocino County, State of California, more particularly described in **Exhibit "A"** [Legal Description of the Property] and depicted on **Exhibit "B"** [Project Site Plan] attached hereto (the "Property").

**C. Project.** The Predecessor in Interest to Landowner has obtained various approvals from County (described in more detail in Recital F, below), including approval for a tentative subdivision map for a project known as Garden's Gate, hereinafter referred to as the "Original Project", to be located on the Property. As reflected in the approved "Vesting Tentative Subdivision Map" (as defined herein), the Original Project

was planned for 197 dwelling units (including those dwelling units established for affordable housing and those dwelling units permitted under the State Density Bonus Law) on a 46.1-acre site with 33 acres established for residential lots, including streets, parks and common areas. The overall development was programmed for 123 single family lots and 74 townhome lots. The plan for the Original Project included 2.3 acres of open space and park areas, with a Neighborhood Park of 0.9 acre and a Community Park of 1.4 acres. The Original Project was to include 36 units for affordable (moderate-income) housing to be constructed, phased and marketed simultaneously with market rate units pursuant to the Inclusionary Housing Agreement, entered into between Landowner and County. The Predecessor in Interest to Landowner was to develop the Original Project in phases and stages as set forth on the approved Project Phasing Plan that is attached as **Exhibit "C"** to this Development Agreement. The Landowner has completed the first phase of the Original Project with the recordation of a Final Map for the subdivision of a 1.68-acre portion of the Original Project to create four parcels ("Tract 261") and that acreage is not included in the Property that is subject to this Second Restated Development Agreement.

The Landowner requested modifications to the Original Project, which is now known as the Bella Vista Subdivision, hereinafter referred to as the "Modified Project", to be located on the Property. As reflected in the approved "Amended Vesting Tentative Subdivision Map" (as defined herein) dated August 31, 2022, the Modified Project was planned for 171 dwelling units on 48.8-acre site, divided into residential lots, including streets, parks and private and common areas. The overall development was programmed for 132 single family lots and 39 age-restricted lots. The Modified Project was to include 2.81 acres of open space and park areas, with a Neighborhood Park of 1.99 acres, a Linear Park of 0.58 acres, and a Cottage Park of 0.24 acres. The Landowner planned to develop the Modified Project in phases and stages as set forth on the Project Phasing Plan. The Modified Project was to include 39 units of age-restricted housing as defined by Civil Code Section 51.3. The age-restricted housing was to be constructed in Phases 1 and 2 of the Modified Project. The Modified Project also included an Inclusionary Housing Plan that restricted 10% of the residential units in the non-age-restricted portion of the development for sale to moderate-income households. The moderate-income units were to be constructed in Phases 3, 4, 5, and 6, pursuant to an Inclusionary Housing Agreement.

The Landowner has requested modifications to the Modified Project, hereinafter referred to as the "Second Modified Project". As reflected in the "Amended Vesting Tentative Map for Bella Vista Subdivision (S\_2020-0001)" (as defined herein) dated March 2025, the modifications include 166 dwelling units on the 48.8-acre site, divided into residential lots, including streets, parks and private and common areas. The overall development is programmed for 124 single family lots and 42 age-restricted lots. The modifications include 3.855 acres of open space and park areas, with a Neighborhood Park of 1.945 acres, a Linear Park of 1.173 acres, a Cottage Park of 0.519 acres, and two additional park areas totaling 0.218 acres. The Landowner will develop the project in phases and stages as set forth on the Project Phasing Plan that is attached as **Exhibit "C"** to this Second Restated Development Agreement. The modifications include 42 units of age-restricted housing as defined by Civil Code Section 51.3. The age-restricted housing will be constructed in Phases 1. Minor modifications are proposed to the Inclusionary Housing Plan to reflect the proposed Amended Vesting Tentative Map and modified Phasing Plan. The modified Inclusionary Housing Plan continues to restrict 10% of the residential units in the non-age-restricted portion of the development for sale

to moderate-income households. The moderate-income units will be constructed in Phase 2, pursuant to the Restated Inclusionary Housing Agreement, a form of which is attached hereto as **Exhibit "D"** and incorporated into this Agreement.

**D. Public Hearings.** On July 2, 2009, the Planning Commission of the County, serving as County's planning agency for purposes of development agreement review pursuant to Government Code Section 65867, considered the Garden's Gate Development Agreement and recommended approval of the Development Agreement to County Board of Supervisors. On October 20, 2009, the County Board of Supervisors approved the Garden's Gate Development Agreement by Ordinance 4229. The Board subsequently approved a First Amendment to the Garden's Gate Development Agreement on April 27, 2010, by adoption of Ordinance 4264.

On March 9, 2023, the Planning Commmission of the County, considered this Restated Development Agreement and recommended approval of a Restated Development Agreement to the County Board of Supervisors. On April 11, 2023, the County Board of Supervisors approved a Restated Development Agreement by Ordinance 4520.

On December 18, 2025, the Planning Commission of the County, considered this Second Restated Development Agreement and recommended approval of this Second Restated Development Agreement to the County Board of Supervisors. On [Insert Date], the County Board of Supervisors approved this Second Restated Development Agreement by Ordinance No. [Insert Number].

**E. Environmental Review.** On October 6, 2009, the County Board of Supervisors certified as adequate and complete, an environmental impact report ("EIR") for the Original Project. The County of Mendocino Department of Planning reviewed the Modified Project and, on the basis of the whole record before it, determined that there is no substantial evidence that the Modified Project would have a significant effect on the environment beyond that which was evaluated in the certified EIR. A supplemental or subsequent EIR was not required pursuant to the California Environmental Quality Act of 1970 (Section 21000, et seq., Public Resources Code of the State of California) and an Addendum to the EIR ("EIR Addendum") was prepared for the Modified Project. The County of Mendocino Department of Planning reviewed the Second Modified Project and, on the basis of the whole record before it, determined that there is no substantial evidence that the Second Modified Project would have a significant effect on the environment beyond that which was evaluated in the certified EIR and EIR Addendum. A supplemental or subsequent EIR is not required pursuant to the California Environmental Quality Act of 1970 (Section 21000, et seq., Public Resources Code of the State of California) and a Second Addendum to the EIR was prepared for the Second Modified Project. Mitigation measures were required in the EIR, and additions and revisions to mitigation measures were made in the EIR Addendum and Second EIR Addendum. The applicant has agreed to incorporate the amended mitigation measures into the Second Modified Project as set forth in the Amended Mitigation Monitoring and Reporting Program (**Exhibit "E"**) and into the terms and conditions of this Second Restated Development Agreement, as reflected by the findings adopted by County Board of Supervisors concurrently with this Second Restated Development Agreement.

**F. Project Approvals.** The following land use approvals (collectively, the "Original Project Approvals") have been granted by the County for the Property:

- (1) Vesting Tentative Subdivision Map approval on October 6, 2009.
- (2) Garden's Gate Final EIR approval and certification on October 6, 2009, by Resolution No. 09-230.
- (3) Project Site Plan approval on October 6, 2009.
- (4) Project Phasing Plan approval on October 6, 2009.
- (5) Master Building Plan approval on October 6, 2009.
- (6) Inclusionary Housing Agreement approval on October 6, 2009.
- (7) Garden's Gate Development Agreement as adopted by Ordinance No. 4229 by the County, on October 20, 2009, and amended on April 27, 2010 by Ordinance No. 4264.
- (8) The Project Design Review Guidelines as approved by the Planning Commission with the filing of the Vesting Tentative Map.
- (9) Declaration of Environmental and Land Covenants.
- (10) Final Findings and Conditions of Approval adopted by Board of Supervisors on October 6, 2009.

**G. Modified Project Approvals:**

Following adoption of the Original Project Approvals, Landowner requested modifications and the County granted the following entitlements ("Modified Project Approvals") for the Property, which entitlements are subject to this Restated Development Agreement:

- (1) Amended Vesting Tentative Subdivision Map approved on April 11, 2023, by Resolution No. 23-075, including:
  - (a) Project Site Plan approved on April 11, 2023, by Resolution No. 23-075
  - (b) Project Phasing Plan approved on April 11, 2023, by Resolution No. 23-075
- (2) Inclusionary Housing Plan approved on April 11, 2023, by Resolution No. 23-075
- (3) Restated Development Agreement adopted on April 11, 2023, by Ordinance No. 4520
- (4) Project Design Guidelines, approved on April 11, 2023, by Resolution No. 23-075,
- (5) Addendum to the Garden's Gate EIR and Amended Mitigation Monitoring & Reporting Program approved on April 11, 2023, by Resolution No. 23-074,
- (6) Final Findings and Conditions of Approval adopted by the Board of Supervisors on April 11, 2023, by Resolution No. 23-075.

**H. Second Modified Project Approvals:** Following adoption of the Modified Project Approvals, Landowner requested further modifications and the County granted the following entitlements ("Second Modified Project Approvals") for the Property, which entitlements are subject to this Second Restated Development Agreement:

- (1) Amended Vesting Tentative Map for Bella Vista Subdivision (S 2020-0001) approved on [Insert Date], by Resolution No. [Insert Number], including:
  - (a) Project Site Plan approved on [Insert Date], by Resolution No. [Insert Number]

- (b) Project Phasing Plan approved on [Insert Date], by Resolution No. [Insert Number]
- (2) Inclusionary Housing Plan approved on [Insert Date], by Resolution No. [Insert Number]
- (3) Second Restated Development Agreement adopted on [Insert Date], by Ordinance No. [Insert Number]
- (4) Project Design Guidelines, approved on April 11, 2023, by Resolution No. 23-075,
- (5) Addendum to the Garden's Gate EIR and Amended Mitigation Monitoring & Report Program approved on [Insert Date], by Resolution No. [Insert Number],
- (6) Final Findings and Conditions of Approval adopted by the Board of Supervisors on [Insert Date], by Resolution No. [Insert Number].

**I. Development Agreement Statute.** County and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development Agreement Statute.

**J. Consistency with General Plan.** Having duly examined and considered this Second Restated Development Agreement and having held properly noticed public hearings hereon, in County Ordinance No. [Insert Number], the County Board of Supervisors finds that this Second Restated Development Agreement is consistent with the Mendocino County General Plan.

**NOW, THEREFORE**, in consideration of the mutual promises, conditions and covenants hereinafter set forth, the Parties agree as follows:

## **ARTICLE 1. DEFINITIONS.**

**1.1. "Amended Vesting Tentative Subdivision Map"** shall mean the vesting tentative subdivision map dated March, 2025, filed by Landowner with the County for the Second Modified Project, as approved by the County Board of Supervisors.

**1.2. "County"** shall mean and refer to the County of Mendocino, a political subdivision of the State of California, in its governmental capacity.

**1.3. "County Laws"** shall mean and refer to the ordinances, resolutions, codes, rules, regulations, and official policies of the County governing the permitted uses of land, density, design, improvement, and construction standards and specifications applicable to the development of the Property and property upon which required off-site public improvements are to be constructed. Specifically, but without limiting the generality of the foregoing, County Laws shall include the County's General Plan, any of the County's Specific Plans, County zoning ordinances, and the County's subdivision ordinance.

**1.4. "Declaration of Environmental and Land Covenants"** shall mean and refer to those covenants imposed on Parcel M described in Section 6.7 and recorded to implement required environmental protections mandated in the EIR, EIR Addendum, and Mitigation Monitoring & Reporting Program approved by the County for the Second Modified Project.

**1.5. "Director of Planning"** shall mean and refer to the County Director of Planning and Building Services.

**1.6. "EIR"** shall mean and refer to the certified Environmental Impact Report for the Garden's Gate Subdivision Project and the Addendum to the Garden's Gate Environmental Impact Report approved by the County.

**1.7. "Exactions"** shall mean and refer to all exactions, costs, fees, in-lieu fees or payments, charges, assessments, dedications or other monetary or non-monetary requirement charged or imposed by County or by County through an assessment district (or similar entity) in connection with the development of, construction on, or use of real property, including but not limited to transportation improvement fees, child care in-lieu fees, art fees, affordable housing fees, dedication or reservation requirements, facility fees, obligations for on- or off-site improvements or construction requirements for public improvements, services or other conditions for approval called for in connection with the development of or construction of the Modified Project under the Existing County Laws, whether such exactions constitute public improvements, mitigation measures in connection with environmental review of the Modified Project Approvals, or impositions made under applicable County Laws or in order to make an Approval consistent with applicable County Laws. Exactions shall not include Processing Fees or those items stated in Sections 6.2 through 6.7 in this Second Restated Development Agreement.

**1.8. "Existing County Laws"** shall mean those County Laws that are in effect as of the Effective Date.

**1.9. "Final Subdivision Map"** shall mean the final subdivision map(s) to be filed by Landowner with the County for the Modified Project pursuant to the Second Modified Project Approvals and this Second Restated Development Agreement.

**1.10. "Final Revised Findings and Conditions of Approval"** shall mean and refer to those Final Findings and Conditions of Approval of Subdivision as adopted by the Board of Supervisors by Resolution No. [Insert Number] on [Insert Date].

**1.11. "Landowner"** shall mean and refer to Rancho Yokayo, LP, a California limited partnership, and its successors and assigns.

**1.12. "Master Building Design Plan"** shall mean and refer to the Master Building Plan for each phase of the Second Modified Project that is to be submitted in conjunction with each subsequent Final Map and is subject to review and approval by the Director of Planning.

**1.13. "Master Declaration of Covenants"** shall mean and refer to the Master Declaration of Covenants, Conditions and Restrictions and Easements for the Second Modified Project as approved by the County as set forth in Section 8.6 of this Second Restated Development Agreement.

**1.14. "Mitigation Monitoring & Reporting Program"** shall mean and refer to the Mitigation Monitoring & Reporting Program adopted by the County for the Second Modified Project pursuant to the EIR and EIR Addendum, and which is attached to this Second Restated Development Agreement as **Exhibit "E"**.

**1.15. "Permitted Uses"** are defined in Section 5.2.

**1.16. "Processing Fee"** shall mean and refer to a fee generally imposed by the County for processing applications for land use, development, construction, building permits and other such applications and approvals that are payable upon the submission of an application for a permit or approval, and which are not solely applicable to the Second Modified Project and cover only the estimated actual costs to the County of processing that application, in accordance with and as provided under Government Code section 66014.

**1.17. "Second Modified Project Approvals"** shall mean and refer to:

- A.** Amended Vesting Tentative Map for Bella Vista Subdivision (S 2020-0001) approved on [Insert Date], by Resolution No. [Insert Number]
- B.** Project Site Plan approved on [Insert Date], by Resolution No. [Insert Number]
- C.** Project Phasing Plan approved on [Insert Date], by Resolution No. [Insert Number]
- D.** Inclusionary Housing Plan approved on [Insert Date], by Resolution No. [Insert Number]
- E.** Second Restated Development Agreement, including Restated Inclusionary Housing Agreement, adopted on [Insert Date], by Ordinance No. [Insert Number]
- F.** Project Design Guidelines, approved on April 11, 2023, by Resolution No. 23-075
- G.** Second Addendum to the Garden's Gate EIR and Amended Mitigation Monitoring & Reporting Program as approved on [Insert Date], by Resolution No. [Insert Number],

H. Final Findings and Conditions of Approval as adopted by the Board of Supervisors on [Insert Date], by Resolution No. [Insert Number].

**1.18. "Project Design Guidelines"** shall mean and refer to the Bella Vista Design Manual dated January 16, 2023, as reviewed by the Planning Commission and approved concurrently with the Modified Project.

**1.19. "Project Landscaping Plan"** shall mean and refer to the amended Project Landscaping Plan dated May 8, 2025, as approved by the County as part of the Second Modified Project Approvals.

**1.20. "Project Phasing Plan"** shall mean and refer to the amended Project Phasing Plan approved by the County as part of the Second Modified Project Approvals, attached hereto as **Exhibit "C"**.

**1.21. "Project Site Plan"** shall mean and refer to the amended Project Site Plan approved by the County as part of the Second Modified Project Approvals, shown on sheets 3 of 4 of the Amended Vesting Subdivision Tentative Map dated March 2025, and attached hereto as **Exhibit "B"**.

**1.22. "Property"** shall mean and refer to the real property located in County of Mendocino, more particularly described in **Exhibit "A"** and depicted on **Exhibit "B"** attached hereto.

**1.23. "Subdivision Improvement Plans"** shall mean and refer to the plans for all offsite and onsite improvements as defined in Section 8.2 of this Second Restated Development Agreement.

**1.24. "Subsequent Approvals"** shall mean those approvals for the Second Modified Project for the design, construction, and building of improvements within the Second Modified Project that are submitted to and approved by the County subsequent to the Second Modified Project Approvals that are defined in this Second Restated Development Agreement.

**1.25. "Term"** is defined and described in Section 4.2.

## **ARTICLE 2. BASICS OF AGREEMENT.**

**2.1. Incorporation of Recitals.** The Preamble, the Recitals and all defined terms set forth in both are hereby incorporated into this Second Restated Development Agreement as if set forth herein in full.

**2.2. Description of Property.** The Property as defined in Section 1.22 shall be subject to this Second Restated Development Agreement.

**2.3. Relationship of County and Landowner.** It is understood that this Second Restated Development Agreement is a contract that has been negotiated and voluntarily entered into by County and Landowner and that Landowner is not an agent of County. County and Landowner hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making County and Landowner joint venturers or partners.

## **ARTICLE 3. FINDINGS.**



**3.1. Findings.** The County Board of Supervisors finds, pursuant to Government Code section 65867.5(b), that this Second Restated Development Agreement and the provisions thereof are consistent with the general plan of the County. County has determined that the Second Modified Project is a development for which a development agreement is appropriate. A development agreement will eliminate uncertainty in the County's land use planning for the Property and secure orderly development of the Second Modified Project and shall assure progressive installation of necessary improvements and mitigation appropriate to each stage or phase of development of the Second Modified Project, insure attainment of the maximum effective utilization of resources within the County at the least economic cost to its citizens, secure public improvements and amenities that could not otherwise be obtained, and otherwise achieve the goals and purposes for which the Second Restated Development Agreement was enacted by the County.

#### **ARTICLE 4. EFFECTIVE DATE AND TERM.**

**4.1. Effective Date.** The effective date of this Second Restated Development Agreement ("Effective Date") is [Insert Date, 30 days from approval], which is the effective date of Ordinance No. [Insert Number], adopting this Second Restated Development Agreement.

**4.2. Term.** Upon execution, the term of this Second Restated Development Agreement shall commence on the Effective Date and shall extend for a period of ten (10) years, unless said term is terminated, modified or extended by circumstances set forth in this Second Restated Development Agreement. Following the expiration of the term, this Second Restated Development Agreement shall be deemed terminated and of no further force and effect. Said termination of the Agreement shall not be deemed to terminate any of the Second Modified Project Approvals or Subsequent Approvals (except to the extent the terms of any such approvals have been extended by virtue of this Agreement) or affect any right or duty created by County approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Second Restated Development Agreement prior to such termination. As to a single residential lot within the Project, upon the final building inspection and the conveyance of such lot to a bona fide good faith purchaser, this Agreement shall be deemed terminated and of no further effect. Such termination shall be automatic without any further action by either party or the need to record any further documents.

**4.3. Right to Extend.** This Second Restated Development Agreement may be extended by the County and Landowner on the following conditions:

- A. Landowner shall have made and submitted to the Director of Planning a written application for extension of the Term no later than the date that is six months prior to the date that the Term of the Agreement is scheduled to expire.
- B. The Second Modified Project shall have met one of the following benchmarks:
  - (1) Landowner has constructed all Age-Restricted Homes and no less than fifty percent (50%) of the Moderate-Income Qualifying Homes.
  - (2) Landowner has commenced construction upon no less than fifty percent (50%) of all dwelling units shown on the Amended Vesting

Tentative Subdivision map. Commencement of construction shall mean that the foundation for a dwelling unit has been constructed pursuant to a validly issued permit from the County.

- C. Upon the Director of Planning finding that Landowner has made timely written application for an extension of the Term and has undertaken the required development as stated in subparagraph B, above, the Planning Director shall grant an extension of no more than an additional five (5) years based upon its findings that the Second Modified Project has met specified benchmarks.
- D. After an initial five (5) year extension of the Term has been granted in accordance with subsection (A), an additional three (3) year extension may be requested by Landowner based on a written application for extension of Term submitted no later than the date that is six months prior to the date that the initial extension of the Term is scheduled to expire. This additional extension may only be approved by the Planning Commission based on a finding that substantial progress towards completion of the Second Modified Project is continuing to occur.

#### **ARTICLE 5. USE OF PROPERTY.**

**5.1 Right to Develop.** Except as otherwise specifically provided in this Agreement, Landowner shall have the vested right to develop the Second Modified Project in accordance with the terms and conditions of the Second Modified Project Approvals, including this Second Restated Development Agreement, the Project Design Guidelines and those rules, regulations, and official policies of the County in force at the time of the Effective Date, and any amendments to the Second Modified Project Approvals, including this Second Restated Development Agreement, as shall, from time to time, be approved pursuant to the provisions of this Second Restated Development Agreement. Landowner's vested right to develop the Property shall be subject to Subsequent Approvals for building and improvement design and construction; provided however, that any conditions, terms, restrictions and requirements for such Subsequent Approvals shall be consistent with the Second Modified Project Approvals including this Second Restated Development Agreement, and the Project Design Guidelines, and shall not prevent development of the Property for the uses provided under the Project Approvals, including this Second Restated Development Agreement ("Permitted Uses").

**5.2 Permitted Uses.** The Permitted Uses of the Property, including the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on-site and off-site improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Second Restated Development Agreement, the Second Modified Project Approvals, the Project Design Guidelines and any amendments to this Second Restated Development Agreement or the Second Modified Project Approvals.

**5.3 Moratorium, Quotas, Restrictions, or Other Growth Limitations.** Landowner and County intend that, except as otherwise provided in this Second Restated Development Agreement, this Second Restated Development Agreement shall vest the Second Modified Project Approvals against subsequent County resolutions, ordinances and initiatives that conflict with the Second Modified Project Approvals

including this Second Restated Development Agreement. In the event of any development moratorium that affects the construction of improvements within the Second Modified Project as defined in Government Code section 66452.6, subsection (f) and Government Code section 65858, the Term of this Second Restated Development Agreement, and the vested rights afforded Landowner under this Second Restated Development Agreement shall be extended for an additional period of time commensurate with the duration of any such moratorium.

**5.4 Subsequent Projects.** Landowner is concerned that County may approve other projects that place a burden on County's infrastructure without considering the prior approval of the Second Modified Project. Therefore, County agrees that during the Term of this Second Restated Development Agreement, Landowner's right to build out and occupy all buildings in the Second Modified Project shall not be diminished despite the burden of future development upon public facilities including, without limitation, roads, roadways, storm sewers, traffic signals, curb gutters, sidewalks, parks, amenities, recreation areas, and other off-site improvements which are of benefit to the Second Modified Project and other properties in the area. Landowner agrees however to pay Landowner's fair share of AB 1600 Traffic Impact fees allocated to the Second Modified Project as provided for in Paragraph 7.3 below.

**5.5 Review and Processing of County Approvals.** County shall accept, process, and review applications for Subsequent Approvals in a reasonably expeditious manner which complies with, and is consistent with, the Second Modified Project Approvals, including this Second Restated Development Agreement, and the Project Design Guidelines. Subsequent Approvals shall be reviewed by the County for consistency with, in all material respects, the Second Modified Project Approvals, including this Second Restated Development Agreement and the Project Design Guidelines. County retains the rights to review and approve of Subsequent Approvals, provided however that County shall exercise County's rights of review and approval in a good faith and reasonable manner as required by California Government Code Section 65865.2, which will not prevent the development of the Second Modified Project for the uses, and with the heights, densities, setbacks and intensities specified in the Second Modified Project Approvals and the Project Design Guidelines or with the rate of development, if any, as specified in the Second Modified Project Approvals, including this Second Restated Development Agreement. Landowner, in a timely manner, shall provide County with all fees, charges, documents, applications, plans and other information necessary for County to carry out its obligations and cause its planners, engineers and all other consultants to submit in a timely manner all necessary materials and documents. All applications for Approvals shall be filed in the manner required under the applicable County Laws, except that such applications shall contain the caption "SUBJECT TO THE SECOND RESTATED BELLA VISTA DEVELOPMENT AGREEMENT" on the front sheet of such applications (provided that a failure to include such caption shall not have any legal effect). The Parties expressly intend to cooperate with one another in a reasonable manner to implement all land use and building approvals for development of the Second Modified Project in accordance with the Second Modified Project Approvals and the Project Design Guidelines.

**5.6 Extension of Approvals.** Upon approval of the Amended Vesting Tentative Subdivision Map, pursuant to California Government Code section 66452.6(a), the term of the Amended Vesting Tentative Subdivision Map shall be extended until the termination of this Second Restated Development Agreement notwithstanding any other County Law.

**ARTICLE 6. APPLICABLE RULES, REGULATIONS, FEES AND OFFICIAL POLICIES.**

**6.1 Rules Regarding Permitted Uses.** State law allows certain concessions and incentives when the Landowner agrees to construct affordable or senior units. For this Second Modified Project, the concessions that the Landowner selected were: 1) to reduce the minimum 6,000 square foot lot size and reduce or eliminate the front, rear and side setbacks required under the zoning ordinance for single-family dwellings. In addition, 2) the Landowner requested that the County waive certain subdivision requirements in order to make the project feasible (namely, the requirements regarding Double Lot frontage, Land Division Chapter Section 17-52(J); Flag Lot Access Strip, Section 17-52(L); and Access Easement Width, Section 17-53(B)). These concessions and incentives are provided for in the Second Modified Project Approvals, including this Second Restated Development Agreement. Except as provided in this Second Restated Development Agreement and the other Second Modified Project Approvals under the State Density Bonus Law, density and intensity of use, the rate, timing, and sequencing of development, the maximum height and size of proposed buildings, signage and provisions for reservation and dedication of land shall be those in force on the Effective Date of this Second Restated Development Agreement.

**6.2 Rules Regarding Construction.** Unless otherwise expressly provided in this Second Restated Development Agreement, all ordinances, resolutions, rules, regulations, and official policies governing improvement and construction standards and specifications applicable to the construction of improvements within the Second Modified Project and to public improvements to be constructed by Landowner shall be those in force and effect at the time the applicable permit approval is granted as are generally applied to such improvements in the County.

**6.3 Changes in State or Federal Law.** In the event that State or Federal laws or regulations, enacted after this Second Restated Development Agreement has been entered into, prevent or preclude compliance with one or more provisions of this Second Restated Development Agreement, such provisions of the Second Restated Development Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations. This Second Restated Development Agreement shall not preclude the application to development of the Property of changes in County laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations.

**6.4 Uniform Codes Applicable.** The Second Modified Project shall be constructed in accordance with the provisions of the California Building, Mechanical, Plumbing, Electrical and Fire Codes, County standard construction specifications, and Title 24 of the California Code of Regulations, relating to California Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Second Modified Project. If no permits are required for infrastructure improvements, such improvements will be constructed in accordance with the provisions of the California Building, Mechanical, Plumbing, Electrical and Fire Codes, County standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the start of construction of such infrastructure.

**6.5 Processing Fees.** County may charge a Processing Fee for a permit or Subsequent Approval submitted by Landowner, as the Processing Fee is in effect at the

time of Landowner's application for that permit or approval with such Processing Fee to be in compliance with Government Code section 66014 and not greater than and consistent with such Processing Fees charged at the time to all other projects and developments in the County.

**6.6 Subsequent Environmental Review.** Landowner agrees to comply with all mitigation measures contained in the EIR, EIR Addendum, and Second EIR Addendum and that are adopted pursuant to Second Modified Project Approvals as set forth in the EIR, EIR Addendum, and Second EIR Addendum and stated in the amended Mitigation Monitoring & Reporting Program. The Parties acknowledge, however, that the Environmental Impact Report for the Original Project ("EIR") contains a thorough analysis of the Original Project and Project alternatives and specifies the feasible mitigation measures available to eliminate or reduce to an acceptable level of adverse environmental impacts of the Original Project. The parties acknowledge that the County Board of Supervisors issued a statement of overriding considerations in connection with the Original Project Approvals, pursuant to 14 California Code of Regulations (CEQA Guidelines) Section 15093. For the Modified Project approved on April 11, 2023, additional environmental analyses were submitted to demonstrate that there was no substantial evidence that the Modified Project would have a significant effect on the environment beyond that which was evaluated in the EIR. An EIR Addendum was reviewed and adopted by the Board of Supervisors for the Modified Project on April 11, 2023 including an Amended Mitigation Monitoring and Reporting Project for the Modified Project. The Second EIR Addendum for the Second Modified Project was reviewed by the Board of Supervisors in conjunction with the Second Modified Project Approvals, and the Board of Supervisors determined that the EIR, EIR Addendum, and Second EIR Addendum provide an adequate database and environmental analysis for the decision to proceed with the Second Modified Project embodied in the Second Modified Project Approvals and this Second Restated Development Agreement, and subsequent development of the Second Modified Project during the Term of this Agreement. The mitigation measures imposed are those appropriate for the implementation of proper planning goals and objectives and the formulation of Second Modified Project development guidelines and conditions of approval. For these reasons, no subsequent or supplemental EIR shall be required by County for any Subsequent Approvals implementing the Second Modified Project unless the provisions of Public Resources Code section 21166 apply. If the provisions of Public Resources Code section 21166 apply, it is understood that the County may adopt and apply such further mitigation measures as may be necessary to comply with CEQA under such circumstances.

**6.7 Declaration of Environmental and Land Covenants.** In order to implement the mitigation measures provided by the Garden's Gate EIR and EIR Addendum applicable to Parcel M, as well as to establish a Riparian Enhancement Area, County and Landowners have agreed to record a Declaration of Environmental and Land Covenants, in a form subject to approval by the County Planning Director and County Counsel, that will be in force and effect as the date the Declaration is recorded designating a portion of the area shown as Parcel M on the Amended Vesting Tentative Map as subject to the Riparian Enhancement Easement and conditions outlined therein. The Declaration of Environmental and Land Covenants and the Riparian Enhancement Easement over the area shown as Parcel M shall be recorded prior to or in conjunction with the Subsequent Final Map for the phase including the subject lots.

**6.8 Application of New County Laws.** Nothing stated in this Second Restated Development Agreement shall prevent County from applying the following to the Property:

- A. New County Laws which are specifically mandated or required by changes in State or Federal Laws;
- B. All laws that are applicable to procedural requirements for building and building occupancy permit application, submittal and issuance that are then generally applied by the County.
- C. Construction standards pursuant to all California Uniform Building Codes incorporated by the County Code that are then generally applied by the County;
- D. Engineering specifications for construction of any public improvements such as curbs, gutters and sidewalks, to the extent they do not conflict with the Modified Project Approvals and Existing County Laws;
- E. Any requirements applicable upon issuance of a building permit for which County acts as an administering agent for another governing agency that are then generally applied by the County.
- F. All County-wide fees, taxes and assessments will apply as will laws affecting public health and safety.

**6.9 Conflicting Laws.** Except as set forth in Section 6.8 above (Application of New County Laws), any action or proceeding of the County (whether enacted by the legislative body or the electorate) that has any of the following effects on the Second Modified Project shall be considered in conflict with this Second Restated Development Agreement and the Existing County Laws:

- A. Limiting or reducing the density or intensity of all or any part of the Second Modified Project, or otherwise requiring any reduction in the square footage or total number of developable blocks, residential units or other improvements;
- B. Limiting the timing or phasing of the Second Modified Project in any manner inconsistent with this Agreement or the Second Modified Project Approvals;  
or
- C. Limiting the location of structures, grading, streets or other improvements on the Property in a manner that is inconsistent with or more restrictive than the

limitations included in the Second Modified Project Approvals or this Agreement.

- D. The above list of actions is not intended to be comprehensive but is illustrative of the types of actions that would conflict with this Agreement and the Existing County Laws.

## **ARTICLE 7. SUBSEQUENTLY ENACTED FEES, DEDICATIONS, ASSESSMENTS AND TAXES.**

**7.1 Plan Check, Building Permit, and Related Fees and Charges.** For each of the respective Buildings, Landowner shall pay those plan check, building permit, and related fees and charges required by County in effect at the time such fees are due for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder. Landowner shall pay plan check fees related to the review of each phased Subdivision Improvement Plan at the weighted hourly rates in effect at the time of the plan check. The amounts of such fees are annually adjusted by the County Board of Supervisors to reflect inflation, and the Landowner will pay such fees in the amount in effect at the time the fees are due.

Landowner proposes to utilize several "master residential building plans" throughout the Second Modified Project. After initial review and approval of the master residential building plans, County will waive the plan review fee for subsequent use of the approved master residential building plans. If there are revisions to the master residential building plans, County will charge the established hourly rate for such review.

**7.2 Parkland In-Lieu Fees.** The County, as of the Effective Date, does not require dedication of park land or payment of parkland in-lieu fees. The parties acknowledge that the Landowner has agreed to construct three parks on-site with a "Neighborhood Park" located on Parcel B along South State Street to be permitted for public use and maintained by the Homeowner's Association, or other oversight instrument has been formed, as approved by the County in its sole discretion. The Neighborhood Park shall be subject to a recorded easement that is subject to approval by the County Counsel and the County Department of Transportation. This park will include an open field, walking paths, picnic area and other seating, and a children's play structure. A portion of it will also function as a stormwater detention facility. A private park for residents of the age-restricted portion of the Second Modified Project ("Cottage Park") will be located on Parcel D within the age-restricted portion of the Second Modified Project and will include landscaping, walking paths, seating and, at a minimum, a covered pavilion that is a minimum of 630 square feet in size and includes an outdoor ceiling fan, electric space heater(s), lighting and a counter with a grill as well as moveable partitions so that the pavilion can be enclosed in inclement weather. If additional lots are placed within the Senior Neighborhood, the size of the covered pavilion shall be increased by 15 square feet per additional lot. A "linear park" that runs in an east-west fashion through the Second Modified Project on Parcels E, F, H, I, J, K, N, and Easements 1 and 2 will contain a 7' paved walking path and adjacent landscaping. No other requirements as to the provision of park lands or payment of parkland in-lieu fees shall be required for the Second Modified Project.

**7.3 Traffic Impact Fees – Off-Site Traffic – Project Contribution.** If, pursuant to AB 1600, the County in the future adopts off-site area wide traffic mitigation fees payable by property owners generally in the Ukiah Valley area, the Landowner agrees to pay its fair share of such subsequently enacted area wide traffic impact fees to be applied prospectively to the phases of the Second Modified Project that have not been developed, with the understanding that Landowner shall receive an appropriate credit for the costs of any off-site roadway or off-site traffic oriented improvements that Landowner has made because of the Second Modified Project for those portions of such off-site improvements that exceed those required because of the impacts of the Second Modified Project.

**7.4 School Impact Fees.** Landowner shall pay school impact fees for the residential units as developed in the Second Modified Project based on the standards and requirements for the determination and calculation of such school impact fees that are in force and effect at the time such fees are due. Payment of any such school impact fees for a Building in the Second Modified Project shall be required at the time of the issuance of the building permits.

**7.5 Emergency Medical Services Fees.** Landowner agrees to pay its proportionate share of any subsequently enacted emergency service fees required by the County to serve the Project Area that are adopted within five years of Effective Date of this Second Restated Development Agreement.

**7.6 Water District Fees.** Landowner agrees to pay a capital improvement fee to fund the Second Modified Project's share of the replacement and expansion of the Fircrest Drive water storage tank per Landowner's agreement with the Willow County Water District.

**7.6 No Further Exactions.** Except as provided in Sections 7.1-7.6, and without the intent of applying to actions taken by the County under Sections 6.2 - 6.7 as the application of New County Laws, the County shall not impose any further or additional Exactions upon the development of the Second Modified Project, whether through the exercise of the police power, the taxing power, design review or any other means, other than those set forth in the Second Modified Project Approvals and Existing County Laws and this Second Restated Development Agreement.

## **ARTICLE 8. ADDITIONAL CONDITIONS.**

**8.1 Project Development Plan.** It is understood that the Second Modified Project is to be developed substantially in accordance with the Project Site Plan that is attached to this Development Agreement as **Exhibit "B"**. The Project Site Plan shall be subject to modifications that are submitted to and approved by the Director of Planning.

**8.2 Subdivision Improvement Plans (SIP).** Prior to recordation of the first Final Map and each subsequent Final Map for each phase of the Second Modified Project, Landowner shall submit a SIP for the phase for review and approval by the County Department of Transportation. Each SIP shall include at minimum: all onsite and offsite easements for roadways, drainage facilities, utilities, approximate lot elevations and detailed designed for all improvements including those on and offsite, located within the existing and proposed public right of way and common areas. The design shall include all engineering reports to justify design, finished grades, cross sections, plan and profiles and details for all storm drain, sanitary sewer, water distribution systems, roadways, site



access, emergency access, and roundabout improvements, as well as planmetric locations for all joint trench utilities.

**8.3 Phasing of Project.** The Landowner will be developing the Second Modified Project in stages as set forth on **Exhibit "C"** ("Project Phasing Plan") attached to this Second Restated Development Agreement. The Landowner will submit a Master Building Design Plan and Landscape Plan for each phase of the Second Modified Project based upon the Project Site Plan and the Project Design Guidelines. The Master Building Design Plan and Landscape Plan for each phase of the Second Modified Project shall be subject to design review by the Director of Planning to confirm that the plans for such Phase are in material compliance with this Second Restated Development Agreement, the Project Site Plan and the Project Design Guidelines.

- A. The Landowner shall commence construction of the first phase of the Second Modified Project on the east side of the project near South State Street and develop the project in an orderly east to west manner. The construction of more than one phase at a time may be permitted in accordance with approved SIPs and in compliance with the Restated Inclusionary Housing Agreement, an approved SWPPP, the EIR Mitigation Measures, and Best Management Practices. Notwithstanding the foregoing easterly development, each phase of the Second Modified Project shall be so designed to provide for the ultimate development of all future phases of the Second Modified Project. All infrastructure to be developed shall be appropriately sized and located so as to be compatible with the SIPs for future phases. The County Director of Planning is authorized to approve amendments to the Phasing Plan for the Second Modified Project.
- B. The Neighborhood Park (i.e., park adjacent to South State Street) and the Interim Entrance (i.e., four-way intersection with new northbound left turn lane) shall be constructed and completed in conjunction with the first phase of the Second Modified Project. If the roundabout on South State Street at the project entry is constructed with the first phase instead of the "interim entrance" improvements, completion of improvements in the Neighborhood Park other than those required for the stormwater system may be deferred until the second phase of the Second Modified Project.
- C. The Project Phasing Plan is not intended to mandate the sequencing of Second Modified Project development except as to compliance with the SIP and is intended to set forth areas of the Second Modified Project that are established as appropriate for incremental stages of development, with the understanding that the sequencing of Second Modified Project development may vary based upon market and development conditions.

**8.4 Recordation of Final Maps.** Any subsequent Final Maps shall be in substantial compliance with the Amended Vesting Tentative Map and adopted Mitigation Measures and Conditions of Approval and shall be processed in accordance with the requirements of the County for subdivision maps that are in force and effect as of the Effective Date of this Second Restated Development Agreement. Final Maps may be filed for portions of the Second Modified Project, in increments in accordance with the current County ordinances and the provisions of Government Code section 66456.1 of the California Subdivision Map Act.

**8.5 Map Act Requirements.** Review and approval of each final subdivision map shall be made in accordance with the conditions and requirements of the Amended Vesting Tentative Map and other applicable conditions, Mitigation Measures and requirements that are stated in the Second Modified Project Approvals, including this Second Restated Development Agreement. Conditions of each final subdivision map shall be consistent with those established under and by this Second Restated Development Agreement and the other Second Modified Project Approvals.

- A. The processing, review and approval of the Final Subdivision Maps shall be administered in accordance with Existing County Laws. Any Final Subdivision Map that is consistent with this Second Restated Development Agreement and the Amended Vesting Tentative Map shall be deemed consistent with the other requirements for findings of consistency under the Map Act and County ordinances for such maps.
- B. The Amended Vesting Tentative Map is subject to the requirements of Government Code section 66473.7, concerning water verifications, and written verification of the availability of a sufficient water supply to serve the Second Modified Project has been provided by Willow County Water District based on a water supply assessment.

**8.6 Future Tentative Maps.** Landowner shall have the right, at any time, to apply for one (1) or more future tentative subdivision maps ("Future Tentative Maps"), relating to the subdivision of the Remainder Parcel and Parcel A, as shown on the Amended Vesting Tentative Map, under the laws then in effect.

**8.7 Master Declaration of Covenants – Final Map Requirement.** The Landowner shall cause to be prepared and submitted to the County for review a Master Declaration of Covenants, Restrictions and Easements for the Properties that integrates the parcels established by the Amended Vesting Tentative Subdivision Map and Final Subdivision Maps, which shall be reviewed and approved by the County Counsel and Director of Transportation before and as a condition of approval for any Final Subdivision Map for the Second Modified Project by the County. The Master Declaration of Covenants, Restrictions and Easements shall include the Project Design Guidelines.

**8.8 Timing of Development.** In consideration of the significant benefits to the County of the development of the Second Modified Project, and in order to promote and encourage the development of the Second Modified Project in accordance with the Second Modified Project Approvals, County agrees that the timing, sequencing and phasing of the development of the Second Modified Project shall be as described in this Second Restated Development Agreement and the Project Phasing Plan. Notwithstanding any other provision of this Second Restated Development Agreement, nothing in this Second Restated Development Agreement shall be construed to impose an affirmative duty upon Landowner to proceed with the development of the Second Modified Project, or any portion thereof, if Landowner in its sole discretion decides not to

proceed with the development of the Second Modified Project, or any portion thereof. The vested rights of Landowner shall include the right of Landowner to develop the Second Modified Project in accordance with the Project Phasing Plan. If development of the Second Modified Project is delayed for reasons beyond the control of Landowner (such as a material change in economic conditions for a prolonged period of time such that a reasonably prudent real estate developer would be unwilling to proceed with the development of all or a portion of the Second Modified Project) the Landowner shall not lose its development rights as herein established. Landowner shall have the right to make adjustments in the sequencing for the Second Modified Project if reasonably necessary for the orderly and economic development of the Second Modified Project, to accommodate the acceleration or deceleration of residential components of the Second Modified Project and/or the efficient and economical installation of infrastructure for the Second Modified Project, subject to approval by the Director of Planning. County is likewise not bound by the Landowner's schedule based on delays outside its control. Notwithstanding the foregoing, if Landowner should cease development under this Second Restated Development Agreement and/or the other Second Modified Project Approvals, Landowner shall complete or cause to be completed all of those off-site and other Second Modified Project improvements for phases of development that have been commenced as of such time as are required to complete those utility and roadway systems and other such infrastructure improvements as are needed to assure the health and safety of occupants of the Second Modified Project and the general public for such commenced phases of the Second Modified Project, subject to the approval of the Director of Planning.

**8.9 Storm Sewer Management Program.** Pursuant to the Master Declaration of Covenants, a Homeowners Association ("HOA"), or other oversight instrument has been formed, as approved by County in its sole discretion, shall be established that details the provision for regular monitoring of the status of the detention pond storage capacities as well as requirements for detention pond cleanouts when necessary to maintain design storm water storage levels. The HOA will employ professional services, subject to prior approval by the County Department of Transportation to monitor implementation and maintenance and self-fund such professional services as needed to ensure that all privately-owned stormwater facilities are operated and maintained in compliance with all state and local requirements. Stormwater Control Treatment Best Management Practices measures shall be located on private property and shall be privately owned and maintained. The provisions for Stormwater Control Treatment Best Management Practices measures shall be stated in the Master Declaration of Covenants which shall be subject to the review and approval of the County Counsel prior to the approval of the final map for first phase of the Second Modified Project. Pursuant to the terms of the Covenants, the County shall be entitled to pursue such legal action as County deems appropriate against the HOA or any responsible property owner for damages based on improper maintenance of the storm sewer management program.

**8.10 Subsequent Approvals.** The Master Building Design Plan and Landscape Plan for each phase of the Second Modified Project shall be subject to design review by the Director of Planning to ensure that each phase is in material compliance with this Second Restated Development Agreement, the Project Site Plan and the Project Design Guidelines.

**8.11 Construction of Off-Site Improvements.** The Second Modified Project Description includes construction of the following off-site improvements to be funded by the Landowner as follows:

- A. Landowner agrees to fund and construct a roundabout on South State Street at the intersection with Plant Road that shall be constructed either before or no later than the final inspection of the 100<sup>th</sup> housing unit. The roundabout shall be consistent with the conceptual plans for such Roundabout Improvements as shown on the Amended Vesting Tentative Map, with the understanding that the final plans for such Roundabout Improvements, including but not limited to the design of the center of the Roundabout Improvements, including landscaping and any monument signage, shall be submitted to the County Department of Transportation for design approval prior to the commencement of construction of the Roundabout Improvements. Prior to constructing the roundabout, Landowner agrees to install a left-turn lane on the northbound South State Street intersection approach which mirrors the existing left-turn lane on the southbound South State Street intersection approach. Landowner also agrees to provide the eastbound project access intersection approach subject to approval of the Department of Transportation.
- B. Landowner agrees to fund and construct a sidewalk to County standards on the north side of Plant Road from the Roundabout to the existing bus shelter on Plant Road. Landowner shall commence and complete the off-site sidewalk improvements simultaneously as the improvements of the Roundabout. In the event that additional right-of-way is necessary to accommodate the pedestrian improvement, the County may secure it at its own expense from the abutting property owner if funding is available. Landowner shall define the location and need for additional right-of-way as early as possible to help facilitate the acquisition of such property for the public pedestrian improvements. If additional right-of-way is necessary for public pedestrian improvements and it is not secured in a timely fashion by the County, the development of the Roundabout may proceed without the pedestrian connectivity at the northeasterly corner and instead additional public pedestrian improvements will be made along the west side of South State Street (or other available right of way as identified by the County Department of Transportation) equal to the cost of construction for the portion of pedestrian connectivity omitted at the northeasterly corner near the existing bus shelter on Plant Road.

**8.12 Development Standards.** The Amended Vesting Tentative Map, as approved by the Board of Supervisors on [Insert Date] by Resolution No. [Insert Number], includes the Project Site Plan attached to this Second Restated Development Agreement as **Exhibit "B"** which shows and describes the approved lot configuration for the Second Modified Project. The approved Project Design Guidelines set forth the standards for application of development standards for the Second Modified Project and are summarized in **Table 1 (Modifications to Site Development Regulations)** below. The approval of the Project Site Plan attached to this Second Restated Development Agreement as **Exhibit "B"**, the previously approved Project Design Guidelines, and Table 1 shall be deemed to be an approval by the County of a legal deviation from

development standards of the applicable zoning, as authorized by the State Density Bonus law.

**Table 1. Modifications to Site Development Regulations**

	<b>SR and R-3 Districts</b>	<b>Approved Modification</b>
Minimum Lot Size	6,000 SF <i>Sec. 20.044.030 (SR)</i> <i>Sec. 20.080.025 (R-3)</i>	3,507 SF (traditional lots) 1,298 SF (senior lots; net SF exclusive of restricted use easements)
Minimum Front Yards	20 feet <i>Sec. 20.044.035 (SR)</i> <i>Sec. 20.080.035 (R-3)</i>	12 feet Garage setback: 20 feet
Minimum Side Yards	6 feet <i>Sec. 20.044.040 (SR)</i> <i>Sec. 20.080.040 (R-3)</i>	4 feet
Street Side Yard Setback	20 feet <i>Sec. 20.152.015(H)</i>	10 feet (traditional lots) 0 feet (senior lots; minimum 8-foot setback between structures, across easements)
Minimum Rear Yards	20 feet <i>Sec. 20.044.035 (SR)</i> <i>Sec. 20.080.035 (R-3)</i>	15 feet

**8.13 Affordable Housing Requirement.** Landowner has received certain concessions and waivers related to County zoning and land division code, including but not limited to lot size and configuration and setback and lot coverage requirements based on the agreement made by Landowner to construct a minimum of 42 age-restricted dwelling units and to restrict 10% of the non-age-restricted dwelling units to be sold to qualifying moderate income households. The Restated Inclusionary Housing Agreement between the Landowner and the County that is attached as **Exhibit "D"** provides for the details of the requirements related to the provision of affordable residential units within the Second Modified Project by the Landowner as of the Effective Date of this Second Restated Development Agreement. Landowner and the County agree that such affordable housing units shall be included by the Landowner within the Second Modified Project on an incremental and phased basis, on a proportionate basis as the Second Modified Project is built out, as set forth in the Restated Inclusionary Housing Agreement, and such affordable housing units in a phase shall be completed simultaneously with market rate units for the phase of the Second Modified Project in which such affordable housing units are located.

**8.14 Insurance.**

- A. Public Liability and Property Damage Insurance.** At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain in effect a policy of comprehensive general liability insurance with a per-occurrence combined single limit of not less than one million dollars (\$1,000,000) and a deductible of not more than ten thousand dollars (\$10,000.00) per claim. The policy so maintained by Landowner shall name County as an additional insured and shall include either a severability of interest clause or cross-liability endorsement.
- B. Workers' Compensation Insurance.** At all times that Landowner is constructing any improvements that will become public improvements,

Landowner shall maintain Workers' Compensation insurance for all persons employed by Landowner for work at the Project site. Landowner shall require each contractor and subcontractor similarly to provide Workers' Compensation insurance for its respective employees. Landowner agrees to indemnify County for any damage resulting from Landowner's failure to maintain any such insurance.

- C. Evidence of Insurance.** Prior to commencement of construction of any improvements which will become public improvements, Landowner shall furnish County satisfactory evidence of the insurance required in Sections 8.14.A and 8.14.B and evidence that the carrier is required to give County at least thirty (30) days prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to County, its elective and appointive boards, commissions, officers, agents, employees and representatives and to Landowner performing work on the Project.

#### **8.15 Permitted Delays; Supersedure by Subsequent Laws.**

- A. Permitted Delays.** In addition to any specific provisions of this Agreement, performance by either Party of its obligations hereunder shall be excused during any period of delay, to the extent that delay is an actual cause of default, caused at any time by reason of acts of God or civil commotion, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to work in process by reason of fire, floods, earthquake, or other casualties, restrictions imposed or mandated by governmental or quasi-governmental entities, enactment of conflicting Laws (including, without limitation, new or supplementary environmental regulations), litigation, acts or neglect of the other Party, or any other cause beyond the reasonable control of a Party. Each Party shall promptly notify the other Party in writing of any delay hereunder as soon as possible after the same has been ascertained. The Landowner and Director of Planning shall then meet and confer reasonably and in good faith to determine how to respond to the delay so as to meet the purposes and intent of this Agreement. The Director of Planning may refer the Landowner's request to the Board. The Term of this Agreement shall be extended by the period of any delay hereunder, not to cumulatively exceed seven (7) years.
- B. Subsequent Laws.** If any Laws made or enacted after the Effective Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new Law. Immediately after enactment of any such new Law, the Parties shall meet and confer reasonably and in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. If such modification or suspension is infeasible, then Landowner shall have the right to terminate this Agreement by written notice to County. In addition, at Landowner's election, the Term of this Agreement may be extended for the duration of the period in which the new Law precludes compliance with the provisions of this Agreement for a period not to exceed 24 months. Landowner shall have the right to challenge the new Law preventing compliance with the terms of this Agreement and in the event

such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

**8.16 Dedication of Access Improvements.** An access strip sufficient to accommodate the roundabout to the satisfaction of the Department of Transportation and as shown on the Amended Vesting Tentative Map and any additional right of way that may be needed for development of subdivision access improvements along the South State Street corridor including drainage and frontage improvements, and the roundabout within the South State Street corridor shall be offered for dedication to the County in fee simple with all costs borne by the Landowner.

## **ARTICLE 9. AMENDMENT OR CANCELLATION.**

**9.1 Modification Because of Conflict with State or Federal Laws.** In the event that State or Federal laws or regulations enacted after the Effective Date of this Second Restated Development Agreement prevent or preclude compliance with one or more provisions of this Second Restated Development Agreement or require changes in plans, maps or permits approved by County, the parties shall meet and confer in good faith in a reasonable attempt to modify this Second Restated Development Agreement to comply with such Federal or State law or regulation. Any such amendment or suspension of the Agreement shall be approved by County Board of Supervisors in accordance with the County Code and this Second Restated Development Agreement.

**9.2 Amendment by Mutual Consent.** This Second Restated Development Agreement may be amended in writing from time to time by mutual consent of the parties hereto and in accordance with the procedures of Government Code section 65868.

**9.3 Amendment of Modified Project Approvals.** Any amendment of Second Modified Project Approvals shall not require an amendment to the Agreement unless the amendment relates to: (a) the permitted use of the Property; (b) provision for reservation or dedication of land; (c) the density or intensity of use of the Second Modified Project; or (d) the maximum height or size of proposed buildings. Such amendment shall be limited to those provisions of this Second Restated Development Agreement, which are implicated by the amendment of the Second Modified Project Approval(s).

**9.4 Cancellation by Mutual Consent.** Except as otherwise permitted herein, this Second Restated Development Agreement may be canceled in whole or in part only by the mutual consent of the parties or their successors in interest, in accordance with the provisions of the Government Code. Any fees paid pursuant to this Second Restated Development Agreement prior to the date of cancellation shall be retained by County.

## **ARTICLE 10. ANNUAL REVIEW.**

**10.1 Review Date.** The annual review date for this Second Restated Development Agreement shall be approximately twelve (12) months from the effective date of the Second Restated Development Agreement.

**10.2 Initiation of Review.** The Director of Planning shall initiate the annual review by giving to Landowner written notice that County intends to undertake such review. Within thirty (30) days of County's notice, Landowner shall provide evidence to the Director of Planning to demonstrate good faith compliance with the Second Restated Development Agreement. The burden of proof, by substantial evidence of compliance, is upon Landowner. County's failure to timely initiate the annual review is not an event of default under this Second Restated Development Agreement and is not deemed to be a waiver of the right to do so at a later date; accordingly, Landowner is not deemed to be in compliance with the Agreement by virtue of such failure to timely initiate review.

**10.3 Staff Reports.** County shall deposit in the mail to Landowner a copy of all staff reports, and related Exhibits, concerning contract performance at least ten (10) days prior to any annual review.

**10.4 Costs.** Costs reasonably incurred by County in connection with the annual review shall be paid by Landowner.

**10.5 Non-compliance with Agreement; Hearing.** If the Director of Planning determines, on the basis of substantial evidence, that Landowner has not complied in good faith with the terms and conditions of the Agreement during the period under review, County Counsel, upon receipt of any report or recommendation from the Planning Commission, may initiate proceedings to modify or terminate the Agreement, at which time an administrative hearing shall be conducted, in accordance with the procedures of State law and the Mendocino County Code. As part of that final determination, County Board of Supervisors may impose conditions that it considers necessary and appropriate to protect the interest of County.

**10.6 Appeal of Determination.** The decision of County Board of Supervisors as to Landowner's compliance shall be final, and any Court action or proceeding to attack, review, set aside, void or annul any decision of the determination by the County shall be commenced within thirty (30) days of the Board's action.

## **ARTICLE 11. DEFAULT.**

**11.1 Default:** Subject to any applicable extension of time, failure by any party to perform any term or provision of this Second Restated Development Agreement required to be performed by such party shall constitute an event of default ("Event of Default"). For purposes of this Second Restated Development Agreement, a party claiming another party is in default shall be referred to as the "Complaining Party", and the party alleged to be in default shall be referred to as the "Party in Default". A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default as provided in Section 11.2.A, and the Party in Default fails to cure such Event of Default within the applicable cure period.



## 11.2 Procedure Regarding Defaults.

- A. **Notice.** The Complaining Party shall give written notice of default to the Party in Default, specifying the default complained of by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- B. **Cure.** The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be deemed by the Complaining Party to be reasonably necessary to correct the matter).
- C. **Failure to Assert.** Any failures or delays by a Complaining 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. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining 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.
- D. **Notice of Default-Time to Cure.** If an Event of Default occurs prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Party in Default shall have such period to effect a cure prior to exercise of remedies by the Complaining Party. If the nature of the alleged default is such that it cannot practicably be cured within such thirty (30) day period, the cure shall be deemed to have occurred within such thirty (30) day period if: (a) the cure shall be commenced at the earliest practicable date following receipt of the notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the curing party's receipt of the notice), the curing party provides written notice to the other party that the cure cannot practicably be completed within such thirty (30) day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within ninety (90) days after the first notice of default is given.

**11.3 Legal Proceedings.** Subject to the provisions of the foregoing Section 11.2, if the Party in Default fails to cure a default in a timely manner in accordance with the foregoing, the Complaining Party, at its option, may institute legal proceedings pursuant to this Second Restated Development Agreement or, in the event of a material default, terminate this Second Restated Development Agreement.

- A. Notwithstanding the foregoing, upon any such Notice of Default being given, either Party may seek resolution of the matter by sending written notice to the other Party requesting mediation of the matter of the Notice of Default. If such request for mediation is delivered by one Party to the other Party then the following shall apply:
  - (1) **Negotiation and Mediation.** The Parties shall make every effort to meet and confer for the purposes of resolving the claim or dispute by good faith negotiations. If the Parties do not resolve the claim or

dispute within thirty (30) days of the date of the Notice, or such other period as may be agreed upon by the Parties, either party shall have an additional thirty (30) days to submit the claim or dispute to mediation under the auspices of Judicial Arbitration & Mediation Services, Inc. (J.A.M.S.), or, if the Parties agree otherwise, to an independent mediator providing dispute resolution services in Mendocino County, California.

- (a) All costs of mediation shall be borne equally by the Parties.
  - (b) If the claiming Party does not submit the dispute or claim to mediation within thirty days (30) after termination of negotiations, or does not appear for the mediation, the claiming Party shall be deemed to have waived the claim or dispute and the other Party shall be deemed to be released and discharged from any and all liability to the claiming Party on account of such claim or demand, provided however, that nothing herein shall be deemed to release the Party from liability to any other person other than the claiming Party.
  - (c) Any settlement of a claim or dispute through mediation shall be documented in writing by the mediator. If the parties do not settle the claim or dispute within thirty (30) days after submission of the matter to the mediation process or within such other time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings. The Termination of Mediation shall set forth that the Parties are at an impasse and the date that the mediation was terminated.
- B. Upon the occurrence of an Event of Default, subject to subparagraph A, above, the Parties may pursue all other remedies at law or in equity, which are not otherwise provided for or prohibited by this Second Restated Development Agreement, or in County's regulations governing development agreements, expressly including the remedy of specific performance of this Second Restated Development Agreement.

#### **11.4 Standards for Termination – Procedures for Termination.**

- A. Standards.** A Party may Terminate this Agreement pursuant to Section 11.3 above on account of the commission by the other Party of an Event of Default only if, as a result of such Event of Default, the Party seeking to Terminate demonstrates, on the basis of substantial evidence in the record as a whole, that it will be deprived of a material benefit under this Agreement.
- B. Procedure for Termination.** If a Party concludes that it has the right to Terminate this Agreement pursuant to Section 11.3, such Party shall give to the other Party notice of its intent to terminate this Agreement. If County is the Party seeking to Terminate this Agreement, County shall then conduct a noticed public hearing before the County Board of Supervisors which public hearing shall be scheduled for the first regularly scheduled meeting of the County Board of Supervisors after the giving of public notice of such hearing in accordance with the applicable State Laws; and such notice of public hearing shall be given by County within thirty (30) days following the date

County gives notice of its intent to Terminate this Agreement. At such hearing, County shall demonstrate on the record the grounds and basis on which it claims the right to terminate under Section 11.3 above. Upon conclusion of such public hearing, the County Board of Supervisors shall direct the County Chief Executive Officer to take whatever action the County Board of Supervisors deems necessary or appropriate in connection with County's notice of intent to Terminate, including to proceed with Termination of this Agreement, proceedings for modification of this Agreement, or any other action specified by the County Board of Supervisors in the exercise of its discretion. The public hearing hereunder shall be concluded within sixty (60) days after it has been opened by the County Board of Supervisors and the holding of such public hearing hereunder shall be a condition to the initiation by County of any proceeding at law or in equity in connection with a Party's Termination of this Agreement on account of an Event of Default. If Landowner is the Party exercising a right of Termination, Landowner shall give County at least forty-five (45) days' notice of its intent to Terminate. During the 45-day period, the Parties shall exercise good faith in attempting to resolve the conflict. If the matter cannot be resolved, only after expiration of the 45-day period may Landowner Terminate this agreement. Such Termination shall be made by sending written notice thereof to the County.

- C. Effective Date of Termination.** Termination of this Agreement by a Party on account of an Event of Default shall be effective on the later of (i) the date specified or required to be specified in a Party's notice of intent to Terminate, or (ii) in the case of the County, thirty (30) days after the conclusion of the public hearing pursuant to Section 11.3.B above unless, as a result of such public hearing, the County determines to take actions as an alternative to or in lieu of Termination, in which event County shall not have the right to Terminate this Agreement unless and until it has given a subsequent notice of Intent to Terminate pursuant to this Section 11.3.C.
- D. Effect of Termination.** If a Party Terminates this Agreement, such Termination shall not affect any right or duty emanating from any Second Modified Project Approvals with respect to the Second Modified Project or Property approved concurrently or subsequently to the approval of this Agreement, but the rights, duties and obligations of the Parties hereunder shall otherwise cease as of the date of such Termination. Upon Termination of this Agreement, County shall retain any and all benefits, including money or land, previously received by County or that should have been received by County as of the date of Termination under or in connection with this Agreement. Notwithstanding the foregoing provisions, no Termination of this Agreement shall prevent Landowner from completing and occupying buildings or other improvements authorized pursuant to valid building permits or certificates of occupancy previously approved by County or under construction at the time of Termination, unless the reason giving rise to the Termination independently affects such building permits or certificates of occupancy. As used herein, "construction" means work under a valid permit, and "completing" means completion for beneficial use or occupancy by Landowner, or if a portion of the Second Modified Project is intended for use by a lessee or tenant and the lessee or tenant is responsible for completing the interior improvements, then for such portion "completing" shall mean such

completion except for interior improvements, such as partitions, duct and electrical runouts, floor coverings, wall coverings, lighting, furniture, trade fixtures, finished ceilings, and other improvements typically constructed by or for tenants of buildings.

**11.5 Default by County.** If County does not accept, review, approve or issue necessary development permits or entitlements as defined by this Second Restated Development Agreement, or as otherwise agreed to by the County and Landowner, or the County otherwise materially defaults under the terms of this Second Restated Development Agreement, County agrees that Landowner or Landowner's successor shall not be obligated to proceed with or complete the Project, nor shall resulting delays in Landowner performance constitute grounds for termination or cancellation of this Second Restated Development Agreement. In addition to any other rights or remedies, Landowner and any successor may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Second Restated Development Agreement, provided however, the Landowner waives any and all rights hereunder to seek damages against the County as a result of any such breach or alleged breach of the provisions of this Second Restated Development Agreement.

**11.6 Limitations on Actions.** Any action by any third Person to attack, review, set aside, void or annul any action or decision taken by either Party under this Agreement shall not be maintained by such Person unless such action or proceeding is commenced within ninety (90) days after the date such decision or action is made or taken hereunder, or such shorter period as is prescribed by Law.

**11.7 Estoppel Certificate.** Landowner may, at any time, and from time to time, request written notice from County requesting County to certify in writing that, (a) this Second Restated Development Agreement is in full force and effect and a binding obligation of the Parties; (b) this Second Restated Development Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments; and (c) to the knowledge of the County the Landowner is not in default in the performance of its obligations under this Second Restated Development Agreement, or if in default, to describe therein the nature and amount of any such defaults. The County shall execute and return such certificate within thirty (30) days following the receipt thereof, or such longer period as may reasonably be agreed to by the Parties. Chief Executive Officer of County shall be authorized to execute any certificate requested by Landowner. The County may recover its reasonable costs from Landowner. Should the party receiving the request not execute and return such certificate within the applicable period, this shall not be deemed to be a default.

**11.8 Venue.** The exclusive venue for any and all disputes shall be the Superior Court of Mendocino County.

## **ARTICLE 12. MORTGAGEE PROTECTION; CERTAIN RIGHTS OF CURE.**

**12.1 Mortgage Protection.** This Second Restated Development Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof after the date of recording this Agreement, including the lien for any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Second Restated Development Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

**12.2 Mortgagee Not Obligated.** Notwithstanding the provisions of Section 12.1 above, no Mortgagee shall have any obligation or duty under this Second Restated Development Agreement, before or after foreclosure or a deed in lieu of foreclosure, to construct or complete the construction of improvements, or to guarantee such construction of improvements, or to guarantee such construction or completion, or to pay, perform or provide any fee, dedication, improvements or other exaction or imposition; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by the Second Modified Project Approvals or by this Second Restated Development Agreement.

**12.3 Notice of Default to Mortgagee and Extension of Right to Cure.** If County receives notice from a Mortgagee requesting a copy of any notice of default given Landowner hereunder and specifying the address for service thereof, then County shall deliver to such Mortgagee, concurrently with service thereon to Landowner, any notice given to Landowner with respect to any claim by County that Landowner has committed an Event of Default. Each Mortgagee shall have the right during the same period available to Landowner to cure or remedy, or to commence to cure or remedy, the Event of Default claimed set forth in County's notice. County, through its Chief Executive Officer, may extend the cure period provided in Section 11.2.D for not more than an additional sixty (60) days upon request of Landowner or a Mortgagee.

### **ARTICLE 13. MISCELLANEOUS PROVISIONS**

**13.1 Negotiated Contract.** Landowner and County agree that this Second Restated Development Agreement is the product of extensive negotiation between Landowner and County and has been reviewed by legal representatives of each. The parties agree that any rule of construction which would interpret this contract against the drafting party or the party which caused the ambiguity or uncertainty, is waived by the parties, regardless of the application of California Civil Code section 1654 and any California case law to the contrary.

**13.2 Severability.** Except as set forth herein, if any term, covenant or condition of this Second Restated Development Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Second Restated Development Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Second Restated Development Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Second Restated Development Agreement is determined to be invalid

or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

**13.3 Full or Partial Invalidity or Unenforceability.** If this Second Restated Development Agreement in its entirety is determined by a court to be invalid or unenforceable, this Second Restated Development Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Second Restated Development Agreement shall be determined by a court to be invalid and/or unenforceable, or if any provision of this Second Restated Development Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of California which became effective after the effective date of the Adopting Ordinance, then the remaining provisions of this Second Restated Development Agreement shall nevertheless remain in force and effect.

**13.4 Applicable Law.** This Second Restated Development Agreement shall be construed and enforced in accordance with the laws of the State of California.

**13.5 Attorneys' Fees and Costs in Legal Actions by Parties to the Agreement.** Should any legal action be brought by either party for breach of this Second Restated Development Agreement or to enforce any provisions herein, including but not limited to any action for declaratory relief, each party shall be solely responsible for and bear its own attorneys' fees, regardless of which party prevails.

**13.6 Attorneys' Fees and Costs in Legal Actions by Third Parties to the Agreement.** If any person or entity not a party to this Second Restated Development Agreement initiates an action at law or in equity to challenge the validity of any provision of this Second Restated Development Agreement or the Second Modified Project Approvals, the parties shall cooperate and appear in defending such action. Landowner shall bear its own costs of defense as a real party in interest in any such action, and Landowner shall reimburse County for all reasonable court costs and attorneys' fees expended by County in defense of any such action or other proceeding.

**13.7 Transfers and Assignments.** From and after recordation of this Second Restated Development Agreement against the Property, Landowner shall have the full right to assign this Second Restated Development Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such assignment in the form attached hereto as **Exhibit "F"** and the conveyance of Landowner's interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Landowner", with all rights and obligations related thereto, with respect to such conveyed property. The assignment shall not take effect until notice is delivered to County in writing.

**13.8 Agreement Runs with the Land.** All of the provisions, rights, terms, covenants, and obligations contained in this Second Restated Development Agreement shall be binding upon the parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Second Restated Development Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on

the Property hereunder, or with respect to any owned property; (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each party and its property hereunder and each other person succeeding to an interest in such properties.

**13.9 Bankruptcy.** The obligations of this Second Restated Development Agreement shall not be dischargeable in bankruptcy.

**13.10 Indemnification.** Landowner agrees to indemnify, defend and hold harmless County, and its elected and appointed boards, commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs) and liability related to breach of contract and for any liability for any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Second Modified Project, provided that Landowner shall have no indemnification obligation with respect to the gross negligence or willful misconduct of County, its contractors, subcontractors, agents or employees or with respect to the maintenance, use or condition of any improvement after the time it has been dedicated to and accepted by County or another public entity (except as provided in an improvement agreement or maintenance bond).

**13.11 Notices.** All notices required by this Second Restated Development Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to County shall be addressed as follows:

County of Mendocino  
Department of Planning and Building Services  
860 North Bush Street  
Ukiah, CA 95482  
Attn: Planning Director

Notice required to be given to Landowner shall be addressed as follows:

RANCHO YOKAYO, LP  
2550 Westlake Drive No. 50  
Chico, CA 95928  
Attention: Doug Guillon

Either party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

**13.12 Reimbursement for Agreement Expense of County.** Landowner agrees to reimburse County for actual expenses incurred over and above fees paid by Landowner as an applicant incurred by County directly relating to this Second Restated Development Agreement, including attorneys' fees, recording fees, publishing fees and reasonable County staff and outside consultants' costs not otherwise included within application fees. This Second Restated Development Agreement may be suspended, at

County's option, until the fees provided for in this section, as well as any other processing fees owed by the applicant to the County for the Project are paid to the County. Upon payment of all expenses, the Landowner may request, and the County shall issue, written acknowledgment of payment of all fees. Such reimbursement shall be paid within thirty (30) days of presentation from the County to Landowner of a written statement of charges. Should any such fees be incurred after the date this Second Restated Development Agreement is executed, such fees shall also be paid within thirty (30) days of presentation from the County to Landowner of a written statement of charges. Fees not paid when due to County shall be subject to a one-time five (5) percent late penalty charge if not paid within thirty (30) days and shall thereafter bear interest at the rate of eleven (11) percent per annum until collected.

**13.13 Third Party Legal Challenge.** If any legal action or special proceeding is commenced by any person or entity challenging this Second Restated Development Agreement, or any provision herein, any of the actions involved with approving this Second Restated Development Agreement, or challenging any of the other governmental review, analysis, decisions or action identified in the recitals section of this Second Restated Development Agreement, the Landowner and County, agree to cooperate with each other in good faith to defend said lawsuit. County may however elect to tender (as provided below) the defense of any such class of lawsuit filed by a third person or entity, to the extent of any claims therein based on alleged defects in the procedures or compliance with applicable laws under which the Project was reviewed and/or approved and, if tendered by County, Landowner shall defend, indemnify and hold County harmless from such claims. Additionally, County may require the Landowner to hire and pay for a separate attorney to defend the County alone from the claims made against the County. County's tender of defense hereunder shall be made in a writing specifically identifying the lawsuit and the claims for which defense and indemnification hereunder are sought by County, which writing shall be delivered to the Landowner as soon as practicable. Provided that County has so tendered the defense of such Claim, the Landowner shall defend, hold, harmless, and indemnify County, its elected officials, officers, appointed officials, and employees from all damages, costs, and expenses incurred in the defense of such claims, including, but not limited to, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in connection therewith. Neither the Landowner nor County shall settle without the consent of the other, which consent shall not be unreasonably withheld. County and the Landowner shall keep the other informed of all material developments involving the resolution of any such claims.

**13.14 Further Assurances.** The Parties agree to execute such additional instruments and to undertake such actions as may be necessary to effectuate the intent of this Second Restated Development Agreement.

**13.15 Private Undertaking.** County and Landowner agree that the Second Modified Project is a private development and that County has no ownership interest in the Second Modified Project except as authorized in the exercise of its governmental functions and except for any financing and lien rights as described in this Second Restated Development Agreement.

**13.16 Third Party Beneficiaries.** This Second Restated Development Agreement is made and entered into for the sole protection and benefit of Landowner and, County and their successors and assigns. No other person shall have any right of action based upon any provision in this Second Restated Development Agreement.



County and Landowner hereby renounce the existence of any third party beneficiary to this Agreement and agree that nothing contained herein shall be construed as giving any Person third party beneficiary status. If any action or proceeding is instituted by any third Person challenging the validity of any provision of this Agreement, or any action or decision taken or made hereunder, the Parties shall cooperate in defending such action or proceeding.

**13.17 Form of Agreement; Recordation; Exhibits.** County shall cause this Second Restated Development Agreement, any amendment hereto and any other termination of any parts or provisions hereof, to be recorded, at Landowner's expense, with the County Recorder within ten (10) days of the Effective Date.

**13.18 Clerk's Entry of Additional Technical Information to the Development Agreement.** Following approval of this Agreement by the Board of Supervisors, the Clerk to the Board is authorized to add technical administrative information within the body of the Agreement pertaining to dates and resolution and ordinance numbers. Such entries shall not be considered to be amendments to the Agreement and shall not require the Developer's further approval.

**13.19 Miscellaneous Provisions.**

A. Any amendment or termination of this Second Restated Development Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination.

B. This Second Restated Development Agreement consists of [Insert Number of Pages] pages and the following acknowledgments and exhibits, which together constitute the entire understanding and agreement of the parties:

- |           |   |   |
|-----------|---|---|
| Exhibit A | – | Project Property Description                      |
| Exhibit B | – | Project Site Plan                                 |
| Exhibit C | – | Project Phasing Plan                              |
| Exhibit D | – | Restated Inclusionary Housing Agreement           |
| Exhibit E | – | Amended Mitigation Monitoring & Reporting Program |
| Exhibit F | – | Form of Assignment                                |

[SIGNATURES TO BE PROVIDED ON THE FOLLOWING PAGE.]

**IN WITNESS WHEREOF**, the County of Mendocino, a political subdivision of the State of California, has authorized the execution of this Second Restated Development Agreement in duplicate by its Chair of the Board of Supervisors and attested to by its County Clerk of the Board under the authority of Ordinance No. [Insert Number], adopted by the Board of Supervisors of the County on [Insert Date], and Landowner has caused this Second Restated Development Agreement to be executed.

"COUNTY"

COUNTY OF MENDOCINO,  
a political subdivision of the State of California

\_\_\_\_\_  
[Insert Name of Chair]  
Chair of the Board of Supervisors

"LANDOWNER"

RANCHO YOKAYO, LP,  
a California limited partnership

By: Guillon, Inc., a California Corporation, its  
General Partner

By: \_\_\_\_\_  
Douglas J. Guillon, President

ATTEST:

\_\_\_\_\_  
[Insert Deputy Clerk of Board Name]  
Deputy Clerk of the Board of Supervisors

APPROVED AS TO FORM:

By \_\_\_\_\_  
[Insert Deputy County Counsel Name]  
County Counsel, Deputy

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 the document.

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_ (insert name and title of the officer), 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 the document.

State of California

County of \_\_\_\_\_

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

## LEGAL DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the County of Mendocino, State of California, described as follows:

Any and all lands and any and all interest thereto lying within the following described real property.

All that real property situate in the unincorporated area of the County of Mendocino, State of California, and lying within Lot 72 and Lot 91, Yokayo Rancho, described as follows;

Beginning at a point North 19°36'49" West a distance of 42.50 feet from a ½" iron pipe as shown on "Parcel Map of Minor Subdivision No. 23-93", filed in Map Case 2, Drawer 58, Page 77 and 78, Mendocino County Records, marking the west line of South State Street and the north line of Lot 91, Yokayo Rancho, said point being the TRUE POINT OF BEGINNING; thence along the west line of South State Street South 19°36'49" East a distance of 719.25 feet; thence North 89°32'30" West a distance of 260.53 feet; thence South 19°33'13" East a distance of 114.82 feet to the south line of Lot 91 of said Rancho; thence along said south line North 89°33'29" West a distance of 2,777.28 feet to the west line of Lot 91 of said Rancho; thence along said west line, North 00°41'37" East a distance of 705.86 feet to the north line of said Lot 91; thence along said north line, North 89°39'29" East a distance of 459.93 feet; thence leaving said north line, North 13°22'55" West a distance of 113.24 feet; thence North South 78°38'48" East a distance of 283.32 feet; thence South 08°48'30" East a distance of 53.47 feet to said north line of Lot 91; thence along said north line North 89°39'29" East a distance of 1,347.87 feet; thence leaving said north line North 17°47'26" West a distance of 42.06 feet; thence North 89°39'29" East a distance of 694.41 feet to the POINT OF BEGINNING.

Containing 48.8 acres, more or less.

APN: 184-120-21, 184-110-28, 184-110-29, 184-120-01 and a portion of 184-033-15.

BASIS OF BEARINGS: California Coordinate System Zone 2 (NAD 83). A Bearing of North 16°27'08" West between NGS monuments (PID KT2296 and PID KT2012 both with epoch date 1991.35).

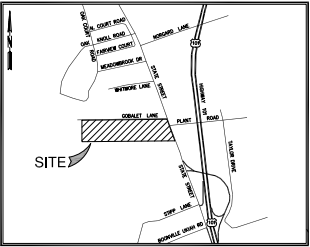
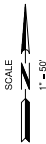
**EXHIBIT B**  
**PROJECT SITE PLAN**



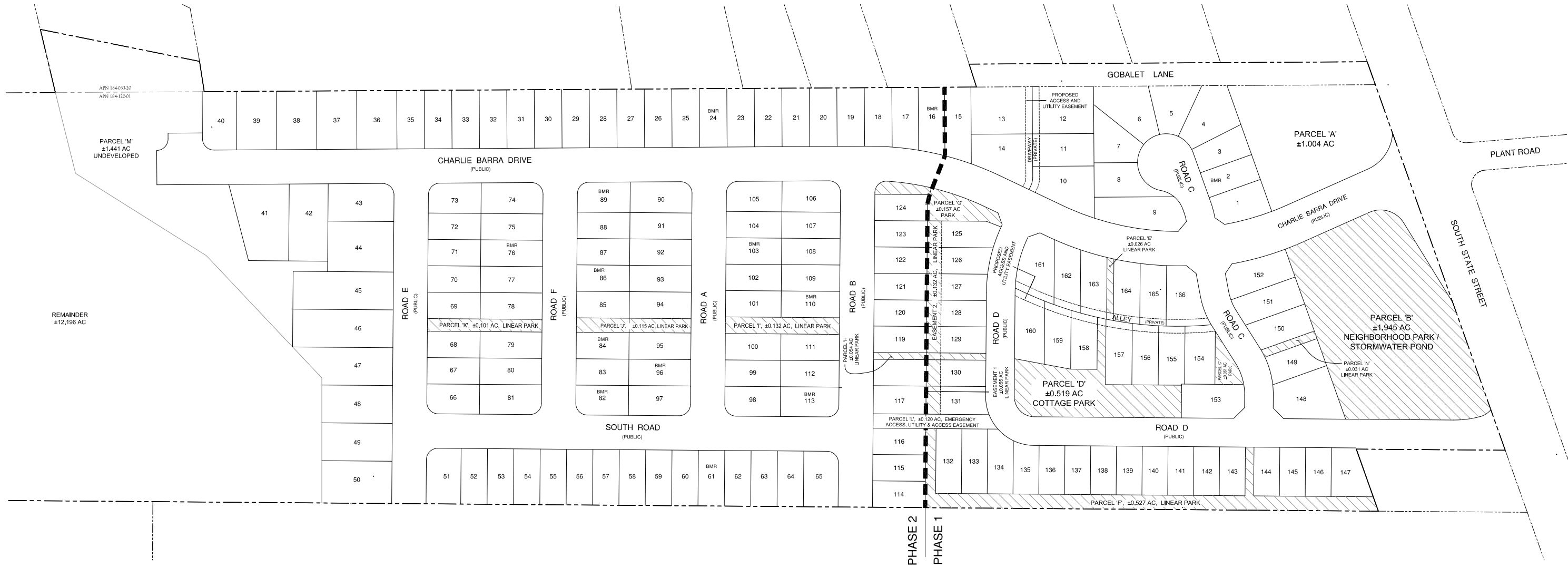
**EXHIBIT C**  
**PROJECT PHASING PLAN**



VERIFY SCALE  
BMR IS ONE INCH ON  
ORIGINAL DRAWING  
IF NOT ONE INCH ON  
THIS SHEET, ADJUST  
SCALE ACCORDINGLY



LOCATION MAP  
NO SCALE



PHASE EXHIBIT  
**BELLA VISTA ESTATES**

**RAR**  
ROLLS ANDERSON & ROLLS  
CIVIL ENGINEERS  
115 YELLOWSTONE DRIVE - CHICO, CALIFORNIA 95973-0811  
TELEPHONE 530-895-1422

NOVEMBER, 2025

24074

SHEET 1 OF 1

**EXHIBIT D**

**RESTATED INCLUSIONARY HOUSING AGREEMENT**

## OFFICIAL BUSINESS

This document is recorded for the benefit of the County of Mendocino and is entitled to be recorded free of charge in accordance with Sections 6103 and 27383 of the Government Code.

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
Office of the County Counsel  
County of Mendocino  
501 Low Gap Road, Room 1030  
Ukiah, California 95482  
Attn: County Counsel

---

(SPACE ABOVE LINE FOR RECORDER'S USE)

## RESTATED INCLUSIONARY HOUSING AGREEMENT

(Master Developer - Senior Housing and Moderate-Income For Sale Units)

### BELLA VISTA SUBDIVISION

This RESTATED INCLUSIONARY HOUSING AGREEMENT ("Agreement") is entered into as of this \_\_\_\_ day of \_\_\_\_, 2026, by and between the County of Mendocino, a political subdivision of the State of California (the "County"), and Rancho Yokayo, LP, (the "Developer"), with reference to the following facts:

- A. Developer is the owner of certain real property in the County of Mendocino, California described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property").
- B. For the purposes of this Agreement, Developer intends to construct a total of 166 residential units known as Bella Vista Subdivision (hereinafter referred to as the "Master Development") on the Property and has applied for an amended vesting tentative subdivision map for the Property (File #S\_2020-0001). Included in those 166 residential units are 42 age-restricted senior housing units and 124 non-age-restricted single-family residences. Of the non-age-restricted residences, 10% (13 units) will be sold to qualifying moderate income households.
- C. This project includes reductions in development standards pursuant to Government Code section 65915 in exchange for which the Developer agrees to construct, or cause to be constructed, an on-site age-restricted senior housing development (the "Senior Units") consisting of 42 residences to be sold at market rates; and 13 on-site single family for-sale housing units as further described in Sections 3 through 5 below to be sold to moderate income qualifying households as described below.
- D. This Agreement is executed in conjunction with the Second Restated Development Agreement which addresses a total of 42 age-restricted senior housing units (the

"Senior Units"), and 124 non-age restricted housing units of which 90% will be market rate housing units (the "Market Rate Units") and 10% will be Affordable Units.

E. The Property was previously subject to a Restated Development Agreement, which was recorded against the Property and described a different Master Development, for which an Inclusionary Housing Agreement was also recorded against the Property. The Restated Development Agreement was amended, replaced and superseded by a Second Restated Development Agreement, approved by the County on [Insert Date]. Similarly, this Agreement amends, replaces and supersedes the Inclusionary Housing Agreement originally recorded against the Property.

F. This Agreement shall be executed and recorded against the Property consistent with Section 26 hereof.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

**Section 1. Definitions.** In addition to those terms defined in the Recitals to this Agreement, the following terms have the following meanings in this Agreement:

(a) "Adjusted for family size appropriate to the unit," as set forth in Section 50052.5 of the California Health and Safety Code, means a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

(b) "Affordable Housing Cost" means the monthly Total Housing Cost to be paid by a Qualified Buyer which does not exceed a specified percentage of gross monthly income, adjusted for family size appropriate for the unit. As provided by California Health and Safety Code section 50052.5, for moderate-income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit.

(c) "Affordable Purchase Price" means a purchase price for an Affordable Unit that results in an Affordable Housing Cost.

(d) "Affordable Unit" means a housing unit reserved for ownership by Moderate Income Households at an Affordable Housing Cost.

(e) "Affordable Unit Property" means the legal parcel(s) of land on which the Affordable Units will be constructed, together with any Affordable Units and appurtenant improvements constructed on such land.

(f) "Approval" means any planned unit development or planned community development approval, subdivision approval, use permit, building permit or combined development permit for a residential development.

(g) "Buyer's Occupancy and Equity Sharing Agreement" shall mean an agreement, in the form provided by the County or its designee, to be executed by each buyer of an Affordable Unit and recorded against the Affordable Unit at the time of purchase by the buyer.

The Buyer's Occupancy and Equity Sharing Agreement shall contain provisions consistent with Government Code Section 65915(c)(2)(C) regarding owner-occupancy of the Affordable Unit, limitations on any rental or leasing of the property, and equity-sharing provisions pertaining to the sale of the Affordable Unit.

(h) "County" shall mean the County of Mendocino or its designee, representative or other agency responsible for the County duties described herein.

(i) "First Approval" means the first Approval to occur with respect to the Master Development.

(j) "Homebuyer/County Deed of Trust" means the deed of trust, in the form provided by the County, executed by each buyer of an Affordable Unit at the time of purchase of the Affordable Unit that secures the buyer's performance under the Buyer's Occupancy and Equity Sharing Agreement and the Homebuyer/County Note.

(k) "Homebuyer/County Note" means the promissory note, in the form provided by the County, executed by each buyer of an Affordable Unit at the time of purchase of the Affordable Unit.

(l) "Median Income" means the median household income for Mendocino County as determined annually by the California Department of Housing and Community Development.

(m) "Moderate-Income Household" means persons and families who are not "lower income households" and whose gross incomes do not exceed 120 percent of the area median income adjusted for family size for Mendocino County as determined annually by the California Department of Housing and Community Development.

(n) "Qualified Buyer" means a Moderate-Income Household who has been determined by the County or its designee to be qualified to purchase an Affordable Unit.

(o) "Referral List" shall mean the list of Qualified Buyers of the Affordable Units provided by the County or its designee to the Developer pursuant to Section 7 below.

(p) "Total Housing Costs" means the monthly recurring expenses required for the unit pursuant to Section 6920 of Title 25 of the California Code of Regulations, including principal and interest on a mortgage loan (based on an assumed thirty-year term and an assumed 5% down payment) and any loan insurance fees associated therewith, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, a reasonable allowance for utilities, and homeowner association fees. The Total Housing Cost shall be the monthly average of estimated costs for the first (1<sup>st</sup>) calendar year of a household's occupancy.

**Section 2. Satisfaction of Affordable Housing Obligation and Conditions of Approval.** The Affordable Housing conditions of the First Approval shall be satisfied with respect to the Property when Developer constructs or causes to be constructed the Affordable Units meeting the requirements of Sections 3 through 5, in compliance with the schedule set forth in Section 6 below and the Affordable Units are sold to Qualified Buyers in compliance with this Agreement. An amendment to this Agreement will be required to receive final subdivision map or other County approval for additional housing units on the Property above the requested total of 158 dwelling units identified by Developer in the First Approval application, to make any changes to the Affordable Units as they are described in Sections 3 through 5 of this

Agreement, or to otherwise change the terms of this Agreement.

**Section 3. Number of Affordable Units.** As a condition to the satisfaction of Developer's affordable housing requirements for the Master Development, Developer shall construct, or cause to be constructed, 13 Affordable Units which shall be affordable to Moderate-Income Households.

**Section 4. Location of Affordable Units.** The Affordable Units shall be constructed on the Property, with Affordable Units to be constructed as part of Phase 2 and no Affordable Units required to be constructed in Phase 1. A total of thirteen (13) Affordable Units shall be constructed among the non-age restricted units to be constructed within the Master Development. The Phasing Plan is attached hereto as **Exhibit B**. The Affordable Units shall be scattered within the Project and intermingled with the Market Rate Units. The legal parcel(s) of land on which the Affordable Units will be constructed, together with any Affordable Units and appurtenant Improvements constructed on-such land, is referred to herein as the "Affordable Unit Property". Prior to recordation of the first Subsequent Final Map, the Applicant shall submit a conceptual plan for the review and approval of the Director of Planning that identifies the locations of the affordable housing parcels throughout the Project Site. The identified parcels for affordable housing may only be modified with the written approval of the Director of Planning, which approval shall not be unreasonably withheld.

**Section 5. Appearance, Size and Bedroom Count.** The Affordable Units shall be detached single family homes. The Affordable Units are to be constructed within the Project among the Market Rate Units and they shall be of the same general design and exterior appearance as the Market Rate Units, with three bedrooms and two bathrooms per unit, and shall be subject to the Project Design Guidelines.

**Section 6. Schedule for Developing Affordable Units.** Developer shall provide the Affordable Units as described in Sections 3, 4 and 5 and as follows:

(a) Upon satisfying all requirements for issuance of building permits, the County will release building permits for each phase as submitted by Developer per Phasing Plan as shown in **Exhibit B** and described in subsections (b) and (c) below.

(b) The final building inspections for the Affordable Units in each phase shall be completed prior to or concurrent with the final building inspections for the Market Rate Units. If the project does not proceed in phases, Developer and Director of Planning and Building Services shall negotiate in good faith to establish a schedule that ensures that issuance of subsequent construction permits is premised upon prior completion of Affordable Units.

(c) For the final phase of construction, prior to issuance of any building permits for any market rate unit in that phase, the Developer will enter into an Agreement to Construct (in a form approved by County Counsel) and shall furnish a completion bond, or other financial security with a construction cost inflation factor, to ensure construction of Affordable Units. The Director of Planning and Building shall approve the financial security.

**Section 7. Sale by Developer to Qualified Buyers: County Affordable Homebuyer Referral List.** No later than completion of each phase of construction, the Developer shall market the Affordable Units for sale to Qualified Buyers. The County shall

compile an Affordable Homebuyer Eligibility Waiting List comprised of Qualified Buyers for the Affordable Units. No later than sixty (60) days preceding the anticipated date of the final building inspection for an Affordable Unit, the Developer shall provide the County with written notice of the availability of the Affordable Unit for sale, including the model name/type (size, square footage and number of bedrooms), location, with specific reference to this Agreement by date and name of the Developer who executed the Agreement and location of the Property described in **Exhibit A** of this Agreement. No later than fifteen (15) business days after receipt of such notice, the County shall provide to Developer a Referral List with the names, addresses, and telephone numbers of at least five (5) Qualified Buyers from the County's Affordable Homebuyer Eligibility Waiting List (or if fewer than five (5) households are on said list, all households on said list). Developer shall contact the Qualified Buyers on the Referral List and offer the Affordable Units to such persons in the order provided in the Referral List. Developer shall market the Affordable Units only to the households referred by the County and shall select a Qualified Buyer for the Affordable Unit from the list of households provided by the County. Developer may contact the County to request a referral of additional Qualified Buyers if necessary. Selected Qualified Buyers shall be responsible for obtaining their own financing for the Affordable Units. Developer shall comply with applicable fair housing laws in the marketing and sale of the Affordable Units. Purchase contracts between Developer and Qualified Buyers shall include requirements that buyers execute documents for the benefit of the County described in Section 9 below.

#### **Section 8. Affordable Purchase Prices.**

The Affordable Units shall be sold to Eligible Buyers at an Affordable Purchase Price calculated pursuant to the formula specified by the County which formula shall be based on the definitions of Affordable Housing Cost and Total Housing Costs in Section 1, herein. Developer shall notify the Department at least thirty (30) days prior to offering an Affordable Unit for sale to allow the County adequate time to calculate and notify the Developer of the Affordable Purchase Prices currently applicable to such units. Developer acknowledges and agrees that Affordable Purchase Prices are determined based on current income levels in the County, changes to which are published annually by the California Department of Housing and Community Development, the number of bedrooms in the Affordable Unit, and prevailing mortgage interest rates, homeowners' association dues, property taxes and assessments, and insurance costs, all of which are subject to change from time to time. Developer agrees that the Affordable Purchase Prices of the Affordable Units shall be calculated by the County in its reasonable exercise of discretion in interpreting the requirements and shall be binding upon Developer. The Affordable Purchase Price established for each Affordable Unit by the County shall be the absolute maximum price that the Developer may charge for the Affordable Unit or may receive as compensation for the Affordable Unit. The Developer may request a meeting with the Director of Planning & Building Services to discuss the Affordable Purchase Price established for an Affordable Unit. The Developer may not charge or receive any additional amount for an Affordable Unit regardless of whether the additional amount is (a) for options, upgrades or additional improvements to the unit, (b) paid through escrow or outside of escrow, (c) paid prior to, after or as part of the purchase escrow or (d) paid in cash or in kind.

**Section 9. Homebuyer Documents and Security Instruments.** Prior to the sale of each Affordable Unit, Developer shall ensure that:

(a) The Qualified Buyer and the County execute a Buyer's Occupancy and Equity-Sharing Agreement consistent with Government Code section 65915(c)(2)(C) which shall be recorded against the Affordable Unit Property at close of escrow on the Sale to the Qualified Buyer. The Buyer's Occupancy and Equity-Sharing Agreement shall be recorded junior only to

the lien of the deed of trust securing the Qualified Buyer's first mortgage loan, unless otherwise approved in writing by the County. The Buyer's Occupancy and Equity-Sharing Agreement shall apply for a term of thirty (30) years from the date of first transfer and shall include provisions for Equity-Sharing should a transfer occur prior to the 30-year term.

(b) The Qualified Buyer signs a Homebuyer/County Note that obligates the Qualified Buyer to pay the County any excess sales proceeds received by the Qualified Buyer if the Qualified Buyer fails to comply with the Buyer's Occupancy and Equity-Sharing Agreement on resale of the Affordable Unit.

(c) The Qualified Buyer signs a Homebuyer/County Deed of Trust to secure performance of the Buyers covenants under the Buyer's Occupancy and Equity-Sharing Agreement and payment of the amounts due under the Homebuyer/County Note if the Qualified Buyer fails to comply with the terms of the Buyer's Occupancy and Equity-Sharing Agreement. The Homebuyer/County Deed of Trust shall be recorded against the Affordable Unit, subordinate only to the Buyer's Occupancy and Equity-Sharing Agreement

**Section 10. County Approval of Documents.** The following documents, to be approved in writing by the County Director of Planning and Building Services prior to issuance of building permits for the Affordable Units, shall be used in connection with the development and sale of the Affordable Units.

(a) Form of Purchase and Sale Agreements for sale of the Affordable Units (to be prepared by the Developer).

(b) Form of Resale Restriction, Homebuyer/County promissory note, and Homebuyer/Security Deed of Trust (to be prepared by the County).

**Section 11. Compliance Reports, Inspections, Monitoring.** Following completion of construction of any of the Affordable Units, the Developer under penalty of perjury, shall submit an annual compliance report to the Department of Planning and Building Services commencing twelve (12) months following the date of issuance of a final certificate of occupancy for the first Affordable Unit to be completed and continuing until all Affordable Units have been sold to Qualified Buyers. Developer shall retain all records related to compliance with obligations under this Agreement for a period not less than five (5) years from the date of sale of all Affordable Units in the Master Development and make them available to County employees or others designated by the County for inspection and copying upon ten (10) business days' written notice. Developer shall permit County employees or others designated by the County to inspect the Property to monitor compliance with this Agreement following five (5) business days' written notice to Developer provided however that such inspection shall only include Affordable Units not yet sold to Qualified Buyers. The County shall be further entitled to monitor compliance with this Agreement and the Developer shall cooperate fully in such monitoring.

**Section 12. Release of Property From Agreement.** The covenants and conditions herein contained shall apply to and bind, during their respective periods of fee ownerships Developer and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden such portions of the Property until terminated in accordance with this Section 12. Until portions of the Property are released from the burdens of this Agreement pursuant to this Section 12, the owners of fee title to the Property shall expressly make the conditions and



covenants contained in this Agreement a part of any deed or other instrument conveying any interest in such property. Upon completion of final building inspections for one hundred percent (100%) of the Affordable Units in each phase of development, the Property within that phase of development, except for the Affordable Unit Property, shall be released from the burdens of this Agreement by the Director of Planning and Building Services. As Affordable Units are sold to Qualified Buyers in compliance with this Agreement, and Buyers Occupancy and Equity Sharing Agreement and Homebuyer/County Deeds of Trust are recorded against the Affordable Units, the portions of the Affordable Unit Property sold to Qualified Buyers shall be released from the burdens of this Agreement.

**Section 13. Default and Remedies.**

(a) Breach by the County. Failure of the County to cure any County default under the terms of this Agreement within sixty (60) days after the delivery of a notice of default from the Developer will constitute a default under this Agreement. The Developer's sole remedy against the County in the event of an uncured default is an action for specific performance.

(b) Breach by the Developer. Failure of the Developer to cure any default in the Developer's obligations under the terms of this Agreement within sixty (60) days after the delivery of a notice of default from the County will constitute a default under this Agreement and a failure to satisfy the conditions of Approval with respect to the Property and, in addition to remedies for breach of this Agreement, the County may exercise any and all remedies available to it under the Subdivision Map Act, Mendocino County Code or otherwise, with respect to the Developer's failure to satisfy the conditions of approval including but not limited to:

(i) withholding, conditioning, suspending or revoking any permit, license, subdivision approval or map, or other entitlement for the Master Development, including without limitation final inspections for occupancy and/or certificates of occupancy;

(ii) instituting against the Developer, or other parties, a civil action for declaratory relief, Injunction or any other equitable relief, or relief at law, including without limitation an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation;

(iii) where one or more persons have received financial benefit as a result of violation of this Agreement, the County may assess, and institute legal action to recover as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received;

(iv) any other means authorized under the Mendocino County Code.

**Section 14. County Remedies Cumulative.** No right, power, or remedy given to the County by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such document, or by any statute or otherwise against Developer and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

**Section 15. Attorneys' Fees and Costs.** Should any legal action be brought by either party for breach of this Agreement or to enforce any provisions herein, including but not limited to any action for declaratory relief, each party shall be solely responsible for and bear its own attorneys' fees, regardless of which party prevails.

**Section 16. Appointment of Other Agencies.** Following consultation with the Developer, the County may, at its sole discretion designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform some or all of the County's obligations under this Agreement.

**Section 17. Hold Harmless.** Developer will indemnify, defend and hold harmless (without limit as to amount) County and its elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Master Development, the Affordable Units, or Developer's performance or non-performance under this Agreement, including the performance or non-performance of any of Developer's officers, employees, agents and subcontractors.

**Section 18. Notices.** All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the addressed set forth below:

TO THE COUNTY:

County of Mendocino  
Dept of Planning and Building Services  
860 N. Bush Street  
Ukiah, California 95432  
Attn: Director

With a copy to;

County of Mendocino  
Office of County Counsel  
County Administrative Office  
501 Low Gap Road, Room 1030  
Ukiah, California 95432  
Attn: County Counsel

TO THE DEVELOPER:

Rancho Yokayo, LP  
Guillon, Inc. Construction  
2550 Lakewest Drive, No. 50  
Chico, CA 95928  
Attn: Doug Guillon

Any party may change the address to which notices are to be sent by notifying the other parties of the new address, in the manner set forth above.

**Section 19. Integrated Agreement.** This Agreement constitutes the entire Agreement between the parties and no modification hereof shall be binding unless reduced to writing and signed by the parties hereto.

**Section 20. Duration and Amendment of Agreement; Assignment.** This Agreement shall remain in effect for so long as the Property is subject to inclusionary housing obligations pursuant to a vesting tentative map. This Agreement, and any section, subsection, or covenant contained herein, may be amended only upon the written consent of the Director of the Department of Planning and Building Services, who shall have authority to approve or disapprove minor or technical amendments on behalf of the County. If the amendment makes a substantive or material change to this Agreement, it shall be effective only following approval of the governmental authority that gave the First Approval for the Master Development. In the event that the Second Restated Development Agreement for the Master Development is assigned pursuant to its terms, this Agreement shall also be assigned to the same assignee pursuant to an agreement, the form of which shall be approved by the County Counsel.

**Section 21. No Claims.** Nothing contained in this Agreement shall create or justify any claim against the County by any person that Developer may have employed or with whom Developer may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Property or the construction of the Master Development.

**Section 22. Applicable Law.** This Agreement shall be governed by California law.

**Section 23. Waivers.** Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Developer or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Developer to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Developer shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

**Section 24. Title of Parts. and Sections.** Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

**Section 25. Multiple Originals: Counterpart.** This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

**Section 26. Recording of Agreement.** The Developer shall cause this Agreement, or a memorandum thereof, to be recorded against the Property, in the Official Records of the County of Mendocino, concurrently with the recordation of the Second Restated Development Agreement.

**Section 27. Severability.** In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless, be and remain in full force and effect.

**Section 28. Implementation Memorandum.** When necessary and convenient for the purpose of implementing this Agreement, the Developer and the County, through the Director of Planning and Building, may enter into one or more Implementation Memorandums ("IM"). The purpose of the IM is to guide the Developer's compliance for matters not expressly provided for in this Agreement. Any IM must be consistent with this Agreement and shall be subject to review and approval by the County Counsel.

**Section 29. Exhibits.** The following exhibits are attached to this Agreement:

- Exhibit A      Legal Description of the Property
- Exhibit B      Phasing Plan

**IN WITNESS WHEREOF**, the County of Mendocino, a political subdivision of the State of California, has authorized the execution of this Affordable Housing Agreement in duplicate by its Chair of the Board of Supervisors and attested to by its County Clerk of the Board under the authority of Ordinance No. [Insert Number], adopted by the Board of Supervisors of the County on [Insert Date], and Landowner has executed this Affordable Housing Agreement.

"COUNTY"

COUNTY OF MENDOCINO,  
a political subdivision of the State of California

\_\_\_\_\_  
[Insert Name of Chair]  
Chair of the Board of Supervisors

"LANDOWNER"

RANCHO YOKAYO, LP,  
a California limited partnership

By: Guillon, Inc., a California Corporation, its  
General Partner

By: \_\_\_\_\_  
Douglas J. Guillon, President

ATTEST:

\_\_\_\_\_  
[Insert Name of Deputy Clerk]  
Deputy Clerk of the Board of Supervisors

APPROVED AS TO FORM:

By \_\_\_\_\_  
[Insert Name of Deputy]  
County Counsel, Deputy

EXHIBIT E

AMENDED MITIGATION MONITORING & REPORTING PROGRAM

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
<b>GEOLOGY</b>					
<b>3.1-A:</b> Improvements built on the site would be subject to seismic ground shaking, which could cause the failure of those improvements and risk to human health.	<b>3.1-A.1:</b> A final geotechnical report shall be prepared that incorporates the recommendations set forth in the 2005 RGH Report as modified by mitigation measures recommended in this EIR. The project applicant shall design project structures and foundations to withstand expected seismic forces in accordance with the California Building Code as adopted by the County of Mendocino. Since the project site is located within Seismic Zone 4 it is considered potentially seismically active. The County shall not issue building permits until seismic design criteria are reviewed and approved. During construction adherence to design criteria shall be monitored, and a final report issued documenting conformance prior to occupancy.	Project Engineer  Project Geotechnical Consultant	Issuance of Building, Grading or Other Permits	Mendocino County Dept. of Planning & Building Services (Planning Dept.)	Planning Dept.  Approval of Final Map
<b>3.1-B:</b> Seismically induced ground failure, including liquefaction and densification, would cause improvements to fail and risk to human health.	<b>3.1-B.1:</b> Potentially unstable surface soils shall be remediated by strengthening the soils during site grading. The strengthening will be achieved by excavating the weak soils and replacing them as properly compacted engineered fill. All site grading and foundation construction shall follow the recommendations of the Geotechnical Engineer of record for the project. The process will include excavation of surface soils and placement of all fill soils at a minimum of 90 percent compaction relative to the maximum dry density near the optimum moisture content as determined in accordance with ASTM D 1557.	Project Engineer	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Prior to building construction

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<p>Site soils will be tested during construction by the Geotechnical Engineer-of-Record or by a Special Inspector to confirm that minimum standards are met. A final report documenting results of fill testing will be submitted to the County of Mendocino Department of Planning and Building Services and will be subject to the review of that department.</p>				
<p><b>3.1-C:</b> Potentially unstable slopes or underlying soils could cause the failure of improvements and risk to human health.</p>	<p><b>3.1-C.1:</b> Cut and fill slopes should be designed and constructed as slope gradients of 2h:1v or flatter, unless otherwise approved by the Geotechnical Engineer-of-record in specified areas. The interior slopes of the retention basin should be inclined no steeper than 3h:1v. If steeper slopes are required, retaining walls shall be used. Fill slopes steeper than 2h: 1v will require the use of a Geogrid reinforcing material to increase stability. Fill slopes shall be constructed by over-filling and cutting the slope to final grade. Graded slopes shall be planted with fast-growing, deep-rooted groundcover to reduce sloughing and erosion.</p> <p>Fills placed on terrain sloping at 5h:1v or steeper shall be continually keyed and benched into firm, undisturbed bedrock or firm soil. The benches shall allow space for the placement of select fill of even thickness under settlement sensitive structural elements supported directly on the fill.</p>	<p>Project Engineer</p> <p>Project Geotechnical Consultant</p>	<p>Issuance of Building, Grading or Other Permits</p>	<p>Planning Dept.</p>	<p>Planning Dept.</p> <p>Prior to building construction</p>



Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<b>3.1-C.2</b> Retaining walls shall be designed to retain planned cut slopes for the hillside lots that exceed 2h:1v in slope steepness. These cuts are planned to be as great as 13 feet in height. The Geotechnical Engineer-of-record shall provide revised recommendations for retaining walls if needed to meet current building code requirements. All retaining walls shall be designed by a State of California Registered Civil Engineer in accordance with requirements of the current edition of the California Building Code including seismic design considerations. Retaining wall design shall be reviewed by the County of Mendocino Department of Planning and Building Services to ensure conformance with state and local building code requirements.	Project Engineer  Project Geotechnical Consultant	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Prior to building construction
	<b>3.1-C.3:</b> Plan Review will be performed by the County of Mendocino Department of Planning and Building Services to ensure conformance with grading and drainage requirements. The Geotechnical Engineer-of-Record shall prepare a geotechnical review letter documenting that plans meet with the intent of geotechnical recommendations.	Project Geotechnical Consultant	During Construction	Planning Dept.	Planning Dept.  Prior to building construction
	<b>3.1-C.4:</b> The Geotechnical Engineer-of-Record and/or Special Inspector shall perform construction observation and testing to ensure conformance with design requirements and geotechnical	Project Geotechnical Consultant	During Construction	Planning Dept.	Planning Dept.  Completion of building construction

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<p>recommendations. Testing and monitoring shall include:</p> <ul style="list-style-type: none"> <li>• Verification of compaction requirements for engineered fill and subgrade soils. Unless otherwise stated all engineered fill shall be compacted to at least 90 percent of the maximum dry density at moisture contents above the optimum in accordance with ASTM D 1557 test method. Subgrade beneath foundations and pavement sections shall be additionally compacted to at least 95 percent of the maximum dry density at moisture contents near the optimum.</li> <li>• Verification of the installation of subsurface drainage in accordance with project plans and specifications.</li> <li>• Verification that footings are excavated into stable material and footing excavations are of sufficient depth and breadth to adequately support structures with minimal or no settlement.</li> <li>• Materials Testing and Special Inspection of concrete, steel, asphalt, wood members and other structural elements to establish conformance with the design standards.</li> <li>• Verification of correct installation of erosion control measures and adherence to the requirements of the approved Stormwater Pollution Plan (SWPPP) for the project.</li> </ul>				

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
<b>3.1-D:</b> Expansive soils on the site could cause the failure of improvements and risk to human health.	<b>3.1-D.1:</b> Where spread footings are chosen for foundation support, weak, porous, compressible and locally expansive surface soil shall be excavated to within 6 inches of their entire depth. Excavation of weak, compressible, and locally expansive soils shall extend a minimum of 12 inches below exterior concrete slabs and/or asphalt concrete pavement subgrade. These soils shall be replaced with select fill material. Additionally, excavation of weak, porous, compressible, expansive, creep-prone surface materials shall extend at least 5 feet beyond the outside edge of exterior footings of the proposed buildings and 3 feet beyond the edge of exterior slabs and or pavements. These soils shall also be replaced with select fill material as described below. Select fill material shall be free of organic matter, have a low expansion potential, and conform in general to the following requirements: 100% passing 6" sieve; 90-100 % passing the 4" sieve; 10-60% passing the No. 200 sieve (all percentages by dry weight); LL - 40 max; PI - 15 max; R-value - 20 min. The Geotechnical Engineer - of - Record shall approve imported material prior to use as compacted fill.	Project Engineer  Project Geotechnical Consultant	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Completion of building construction
<b>HYDROLOGY &amp; WATER QUALITY</b>					
<b>3.2-A:</b> Development of the project would create new impervious	<b>3.2-A.1:</b> The project shall not cause flooding downstream of the project site, and post-development peak flows discharged to the 18-inch CMP storm drain beneath South State Street shall	Project Engineer	Final Map approval	Mendocino Water Agency	Mendocino Water Agency and Planning Dept.

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
surfaces, increasing the rate and amount of stormwater runoff. This runoff could contribute to flooding in the vicinity of the project site.	not exceed pre-development peak flows. At final project design, the applicant shall calculate the amount of runoff that will be generated by the developed portions of lots that drain into Cleland Mountain Creek and factor that increase into the analysis performed by Sandine and Associates to determine whether peak flow rates will remain below pre-development levels and the risk of flooding in the project site and off-site downstream will not be increased. If the post-project peak flow rates exceed the pre-development levels, the applicant shall increase the volume of the detention basin capacity to achieve the target peak flow discharge. The 18-inch storm drain facility beneath South State Street shall be located, inspected by video camera or other method, and a report submitted to the County Department of Transportation at the time of the final design of the subdivision storm drainage system, substantiating the adequacy of the existing facility to accommodate the design runoff or recommending improvements necessary to the facility to adequately accommodate project runoff. Those recommendations shall be constructed.			(Water Agency)  Mendocino County Department of Transportation	Mendocino County Department of Transportation  Final Map approval
	<b>3.2-A.2:</b> As part of the Development Agreement, establish a Homeowners Association (HOA) maintenance agreement that details the provisions for regular monitoring of the detention pond storage capacities, as well as requirements for detention pond cleanouts, when necessary, to maintain design stormwater storage levels.	Project Engineer	Approval of Development Agreement	Planning Dept.	Planning Dept. Prior to construction

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	Establish a monitoring protocol that is acceptable to the County that monitors implementation of this maintenance, including a bond or other funding agreement that reimburses the County if the County is required to conduct required maintenance due to the HOA not implementing required maintenance.				
<b>3.2-B:</b> Project development would result in the construction of four residential lots in the FEMA- designated 100- year floodplain of Cleland Mountain Creek.	<b>3.2-B.1:</b> The project shall not result in flooding of residences on the project site. To minimize the risk of flooding during the FEMA-designated 100-year base flood, the applicant shall implement one of the following alternatives:  A) Re-design the grading plan for Lots 20-21 and 196-197 in the vicinity of Cleland Mountain Creek so that building finished floor elevations are a minimum of one foot above the land surface elevations inferred by the FIRM Zone A SFHA mapping,  or  B) Prepare a Letter of Map Revision (LOMR), accompanied by the appropriate technical documentation, and submit it to FEMA (or its sponsored contractor), to petition for a change in the FEMA SFHA designation for the project site. Required technical documentation would include an updated flood backwater profile modeling of Cleland. Creek, including the proposed Plant Road bridge crossing, which was excluded from	Project Engineer	Final Map approval	Planning Dept.  Water Agency	Planning Dept.  Prior to Final Map

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<p>the original HEC-RAS analysis conducted for the project by Sandine Associates.</p> <p>If the modeling results verify that the published FEMA mapping is inaccurate and that Lots 20-21 and 196-197 are outside of the redefined SFHA, then the lots could be developed as proposed, subject to possible regulatory restrictions or conditions imposed by the California Department of Fish and Game (CDFG) and the Mendocino County Water Agency (MCWA) for disturbance of the riparian corridor. If the modeling results verify that the published FEMA flood mapping was accurate, then Alternative A would be required for development of the lots.</p> <p>The same potential regulatory restriction or conditions imposed by CDFG or the MCWA would apply.</p>				
<p><b>3.2-C:</b> Project development would result in the clearing of land for the proposed site improvements. During and after project construction exposed slopes will be at increased risk of erosion. Site erosion could</p>	<p><b>3.2-C.1:</b> The project shall not cause significant erosion. The applicant shall submit a detailed Erosion Control Plan as part of the Stormwater Pollution Prevention Plan (SWPPP) to the Mendocino County Water Agency (MCWA) and to the State Water Resources Control Board (SWRCB), in conjunction with the filing of a Notice of Intent (NOI) with the SWRCB. The County shall not issue a Grading Permit until the County Water Agency agrees that the plan contains adequate Best Management Practices for controlling</p>	Project Engineer	Issuance of Building, Grading or Other Permits	Water Agency SWRCB	<p>Water Agency SWRCB</p> <p>Plan verified at approval of Grading Permit</p> <p>Implementation verified at completion of construction</p>

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
<p>prematurely decrease the storage capacity of the vault detention system. The construction of the proposed bridge crossing over Cleland Mountain Creek would also create conditions for the discharge of fill into Waters of the United States.</p>	<p>erosion. At a minimum, the Erosion Control Plan shall include the following restrictions, guidelines, and measures:</p> <p>(1) grading and earthwork shall be prohibited during the wet season (typically October 15 through April 15) and such work shall be stopped before pending storm events during the spring fall construction season; (2) erosion control/soil stabilization techniques such as straw or wood mulching, erosion control matting, and hydroseeding, or their functional equivalents shall be utilized in accordance with applicable manufacturers specifications and erosion control Best Management Practices (BMPs) published in the California Stormwater BMP Handbook - Construction (California Stormwater Quality Association 2005) and/or similar proscriptions outlined in the Erosion and Sediment Control Field Manual (SF Bay RWQCB 2002); (3) bales of hay or accepted equivalent methods shall be installed in the flow path of graded areas receiving concentrated flows, as well as around storm drain inlets; (4) installation of silt fencing and other measures to segregate the active flow zone of Cleland Mountain Creek from the near overbank disturbance associated with bridge abutment construction; and (5) post-construction stormwater treatment measures.</p> <p>These and other erosion control BMPs shall be monitored for effectiveness and shall be subject to inspection by the County. The applicant shall be</p>				

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	responsible for implementing any remedial actions recommended by the County. After construction is completed, all drainage facilities shall be inspected for accumulated sediment, and these drainage structures shall be cleared of debris and sediment. Silt fence shall be left in place until the hydroseed has become established.				
<b>3.2-D:</b> Project implementation would increase the area devoted to both paved (roadway and driveway) surfaces and maintained landscaping. Episodic discharge of stormwater contaminated with heavy metals could detrimentally affect downstream water quality. Residential lot development would be accompanied by increased application of fertilizers and chemicals (such as herbicides and pesticides).	<b>3.2-D.1:</b> The project shall not cause substantial pollution of Cleland Mountain Creek or the Russian River. The applicant shall prepare an NOI and SWPPP for the project, and incorporate the following additional site-appropriate BMPs or their equivalents for short- and long-term implementation by the Homeowners Association (HOA) and/or individual lot owners, in order to comply with the requirements of the NPDES General Permit and provisions of the Mendocino County Storm Water Management Program. The BMPs will result in stormwater leaving the site at least meeting the NCRWQCB water quality objectives for the Russian River. The SWPPP shall be approved by the Mendocino County Water Agency and the State prior to project construction. Impervious surfaces shall be minimized by using such techniques as driveway strips with bordering pervious pavement material (rather than a full paved driveway); using pervious materials for parking areas; directing runoff from rooftops and	Project Engineer	Issuance of Building, Grading or Other Permits	Water Agency  Planning Dept.  SWRCB	Water Agency  SWRCB  Plan verified at approval of Grading Permit Implementation verified at completion of construction



Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<p>streets to landscaping buffers and/or recharge trenches.</p> <p>These and other BMPs shall be monitored for effectiveness and shall be subject to inspection by the County. The Homeowners Association shall be responsible for implementing any remedial actions recommended by the County. The applicant shall establish a monitoring protocol that is acceptable to the County that monitors implementation of these measures, including a bond or other funding agreement that reimburses the County if the County needs to conduct required maintenance due to the HOA not implementing required maintenance. The County can require that monitoring be done by a third party acceptable to the County; costs of all monitoring and any maintenance will be borne by the Homeowners Association.</p> <p>Since the objective of erosion control and water quality treatment measures would be to reduce contaminant loading to the maximum extent practicable with implementation of the best available technologies, the recommended BMPs are not fixed. Other measures can be applied as long as the applicant can demonstrate to the satisfaction of MCWA that those measures can provide equivalent levels of reduction in contaminant loading.</p> <p>The applicant shall prepare a plan that describes the roles and responsibilities of the HOA, lot</p>				

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	owners, and/or the County for implementing the BMPs and monitoring the results. If the County will be responsible for monitoring or implementing any actions, then a funding mechanism will be established. The County will review and approve this plan prior to the onset of construction.				
	<b>3.2-D.2:</b> Per the recommendations of the CDFG, Lot 4 of Tract 261 shall be removed from the project in order to provide the minimum creekside buffer required to filter contaminants, including sediment, from stormwater runoff. A minimum 100-foot setback from Cleland Mountain Creek shall be established on Parcel M.	Project Engineer	Prior to issuance of first Final Map	Planning Dept.	Planning Dept.  Prior to issuance of first Final Map
<b>3.2-E:</b> The project plus other cumulative development could adversely affect the water quality of the Russian River.	Mitigation Measures for Impacts 3.2-C and 3.2-D also apply to this impact.	See the cited measures.			
<b>BIOLOGICAL RESOURCES</b>					
<b>3.3-A:</b> Project development could adversely affect water quality thereby indirectly	<b>3.3-A.1:</b> The applicant shall preserve water quality in Cleland Mountain Creek. A Riparian Enhancement Area that includes Parcel M and Lot 4 of Tract 261 shall be established to include all areas within a setback of 20 feet from the top of	Project Applicant	Final Map for Phase in which lots are located	Planning Dept.	Planning Dept.  Approval of Final Map for

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
affecting listed salmonid species.	bank of this creek and deed restricted to prohibit grading, tree cutting, trash deposition, landscaping other than natural habitat restoration, storage of materials, filling, structures, dumping of chemicals, or disruptive activities. The applicant shall replant the Riparian Enhancement Area. The planting and maintenance of the plantings shall be conducted per a plan prepared by a qualified biologist. The replanting shall include riparian species along the creek and oaks, bay, and buckeye further from the creek. The plan shall include the planting of at least three replacement trees (of the same species as the tree removed) for each oak, bay, buckeye, and Oregon ash that is removed. Within the 20-foot riparian habitat setback, appropriate native ground covers and shrubs will also be established to filter runoff from developed portions of nearby lots. All plantings established under this plan shall be irrigated and replaced as needed as well as monitored by the plan preparer for a period of no less than 3 years to ensure successful establishment. The Riparian Enhancement Area shall be maintained by the HOA pursuant to this plan.				Phase in which lots are located
	<b>3.3-A.2:</b> Construction activities within Cleland Mountain Creek shall be limited to the dry season when no flowing water is present in the channel. Channel disturbance shall be kept to a minimum during construction activities within the channel and only occur within designated areas.	Project Applicant	Prior to initiation of construction within Cleland Mountain	Planning Dept.	Planning Dept.  During construction activities

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
			Creek channel		
	<b>3.3-A.3:</b> When water is present within Cleland Mountain Creek, a qualified biologist shall conduct a clearance survey to determine the presence or absence of western pond turtle individuals immediately prior to the start of work. If western pond turtles are observed where they could be potentially impacted by Project activities, then work shall not be conducted within 100 feet of the turtle(s) until a qualified biologist has relocated the turtle(s) outside of the Project boundary. If turtle eggs are uncovered during construction activities, then all work shall stop within a 25-foot radius of the nest and CDFW shall be notified immediately. The 25-foot buffer shall be marked with identifiable markers that do not consist of fencing or materials that may block the migration of young turtles to the water or attract predators to the nest site. No work will be allowed within the 25-foot buffer until CDFW has been consulted.	Project Applicant  Project Biologist	Prior to initiation of construction within Cleland Mountain Creek channel	Planning Dept.  CDFW	Planning Dept.  Prior to issuance of construction permits
	<b>3.3-A.4:</b> Removal of nesting habitat (for grasshopper sparrows, migratory birds and raptors) from the work area shall only take place between September 1 and January 31 to avoid impacts to nesting birds. If removal of nesting habitat is required during the nesting season, a nesting bird survey shall be conducted by a qualified biologist no more than 5 calendar days prior to disturbance. If an active nest is located,	Project Applicant  Project Biologist	Prior to tree removal and/or grading activities between February 1 and August 31.	Planning Dept.  CDFW	Planning Dept.  Prior to removal of nesting habitat during nesting season.

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	the biologist will coordinate with CDFW to establish appropriate buffers and any monitoring requirements. Removal of existing vegetation shall not exceed the minimum necessary to complete operations.				
	<b>3.3-A.5:</b> A pre-construction/demolition bat survey shall be conducted by a qualified biologist within 5 days prior to the removal of suitable bat habitat (i.e., existing building). Mature trees and the existing outbuilding present on the project site should only be removed between September 16 and March 15, outside of the bat maternity season. Trees should be removed at dusk to minimize impacts to roosting bats.	Project Applicant  Project Biologist	Prior to removal of outbuilding and/or tree removal	Planning Dept.	Planning Dept.  Prior to removal of outbuilding and/or tree removal
	<b>3.3-A.6:</b> Prior to any discharge or fill material into waters of the U.S., authorization under a Nationwide Permit shall be obtained from the U.S. Army Corps of Engineers, if necessary. For fill requiring a Corps permit, a water quality certification from the Regional Water Quality Control Board shall also be obtained	Project Applicant	Prior to activities requiring said permits	Planning Dept.  CDFW  ACOE  RWQCB	Planning Dept.  Prior to approval of any work within Cleland Mountain Creek corridor
	<b>3.3-A.7:</b> Prior to any activities that would obstruct the flow of or alter the bed, channel, or bank of any perennial, intermittent, or ephemeral creeks, notification of streambed alteration shall be submitted to the CDFW, and, if required, a	Project Applicant	Prior to activities requiring said permits	Planning Dept.  CDFW	Planning Dept.  Prior to approval of any work

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	Lake and Streambed Alteration Agreement shall be obtained.				within Cleland Mountain Creek corridor
<b>3.3-B:</b> Project construction would remove up to 25 oaks.	Mitigation Measure 3.3-A.1 also applies to this impact.	See the cited measure.			
	<b>3.3-B.1:</b> An assessment shall be conducted that determines the area and number of oaks and other native hardwoods that would be removed or adversely impacted as a result of project development on Parcel Mand Lot 4 of Tract 261. Building envelopes on Parcel Mand Lot 4 of Tract 261, as well as driveway and utility connection locations, shall be adjusted if needed to avoid loss or both short-term and long-term adverse effects on native trees. The area outside of these building envelopes shall be deed restricted to require maintenance of existing native trees, and prohibition of lawns and landscaping incompatible with long-term survival of these trees, while allowing pruning and removal of any dead or dying trees, dead limbs and brush, and any clearances required as needed to reduce wildland fire hazard. All removed hardwoods shall be replaced with the same species at a minimum replacement ratio of 3:1 within the 20-foot riparian setback zone along the top of the bank of Cleland Mountain Creek. A minimum 3-year monitoring plan shall	Project Applicant  Project Construction Manager during construction	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Completion of construction implementation

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	track planted trees and replace all that are dead or dying.				
	<b>3.3-B.2:</b> If any of the 11 oak trees are removed, they shall be replaced at a mitigation ratio of 8:1. Trees shall be staked and screened for rodent protection and shall be irrigated for at least 3 years. The mitigation trees shall be located on properties that will be managed and maintained by the HOA.	Project Applicant  Project Construction Manager during construction	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Completion of construction implementation
<b>3.3-D:</b> Project construction would restrict wildlife movement and displace nesting sites.	Mitigation Measure 3.3-A.1 also applies to this impact.	See the cited measure.			
<b>3.3-E:</b> The project plus other proposed new development in the area could have a cumulative impact on Russian River water quality and oak woodlands.	Mitigation Measures 3.2-C.1, 3.2-C.2, 3.2-D.1, 3.2-D.2, and 3.3-A.1 also apply to this impact.	See the cited measure.			
<b>CULTURAL RESOURCES</b>					

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
<b>3.4-A:</b> Cultural resources could be damaged or destroyed by project construction.	<b>3.4-A.1:</b> If cultural resources are discovered on the site during construction activities, all earthmoving activity in the area of impact shall be halted until the applicant retains the services of a qualified archaeological consultant. These archaeological sites will be documented (by a professional meeting the Secretary of the Interior qualification standards) on DPR forms and evaluated for their eligibility for the California Register. The archaeological consultant shall identify specific measures to mitigate impacts to the resource if it is deemed eligible for the California Register. Mitigation shall include data recovery operations, protection in situ of deposits, and/or archival research, if appropriate. The applicant shall abide by the recommended proposals.	Project Applicant  Project Construction Manager during construction	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Completion of construction for implementation
	<b>3.4-A.2:</b> In the event that human skeletal remains are discovered, work shall be discontinued in the area of the discovery and the County Coroner shall be contacted. If skeletal remains are found to be prehistoric Native American remains, the Coroner shall call the Native American Heritage Commission within 24 hours. The Commission will identify the person(s) it believes to be the "Most Likely Descendant" of the deceased Native American. The Most Likely Descendant would be responsible for recommending the disposition and treatment of the remains. The Most Likely	Project Applicant  Project Construction Manager during construction	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  County Coroner  Completion of construction for implementation



Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	Descendant may make recommendations to the landowner or the person responsible for the excavation/grading work for means of treating or disposing of the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.				
<b>3.4-B:</b> Paleontological resources could be damaged or destroyed by project construction.	<b>3.4-B.1:</b> During project grading operations, should any undiscovered evidence of paleontological resources be encountered, work at the place of discovery shall be halted, and a qualified paleontologist shall be consulted to assess the significance of the finds. Prompt evaluations can then be made regarding the finds, and a management plan consistent with CEQA. cultural resources management requirements shall be adopted.	Project Applicant  Project Construction Manager during construction	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Completion of construction for implementation
<b>TRAFFIC AND CIRCULATION</b>					
<b>3.5-C:</b> The proposed roundabout may not be able to accommodate truck and bus traffic.	<b>3.5-C.1:</b> The project applicant shall design the proposed South State Street/Plant Road roundabout to accommodate all existing and anticipated buses and large trucks.  Turning template diagrams shall be provided to the County Department of Transportation for the largest bus and trucks anticipated to be using the roundabout.	Project Applicant	Final Subdivision Map or Issuance of Building, Grading or Other Permits	Mendocino County Department of Transportation (DOT)	DOT  Approval of Final Subdivision Map

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
<b>3.5-F:</b> The project design does not adequately provide for mass transit access.	<b>3.5-F.1</b> To provide access for project residents to the existing Mendocino Transit northbound bus stop on Plant Road across from the project site, a pedestrian walkway shall be constructed between the proposed roundabout at South State Street/ Plant Road-Charlie Barra Drive and the bus stop. The applicant shall also work with Mendocino Transit Authority to investigate the feasibility of providing a bus stop for southbound bus service within walking distance of the project site.	Project Applicant	Final Subdivision Map or Issuance of Building, Grading or Other Permits	Mendocino County Department of Transportation (DOT)	DOT  Approval of Final Subdivision Map
<b>3.5-I:</b> The project plus other new development would generate new traffic that would add congestion to study area intersections.	<b>3.5-I.1:</b> The applicant and/or future site developers shall pay the adopted Ukiah Valley Area Transportation Impact Fee at the time that building permits are issued.	Project Applicant	Building Permits	Planning Dept.  Mendocino Council of Governments	Planning Dept.  Issuance of Building Permits
<b>AIR QUALITY</b>					
<b>3.6-A:</b> Construction activities associated with development of the project would generate short-term emissions of criteria pollutants, including fine and respirable	<b>3.6-A.1:</b> The project applicant and construction contractor shall for all construction project phases prepare and implement a dust control program to limit construction emissions of PM <sub>10</sub>  The program shall include at least the following provisions from MCAQMD Rule 1-430 Fugitive Dust. Because the site is over one acre in size, a Grading Permit must be approved by MCAQMD. and MCAQMD may require additional mitigations.	Project Construction Manager	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  During and at Completion of construction

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
particulate matter and equipment exhaust emissions.	a. Covering open bodied trucks when used for transporting materials likely to give rise to airborne dust. b. The use of water or chemicals for control of dust in the demolition of existing buildings or structures. c. All visibly dry disturbed soil road surfaces shall be watered to minimize fugitive dust emissions. d. All unpaved surfaces, unless otherwise treated with suitable chemicals or oils, shall have a posted speed limit of 10 miles per hour. e. Earth or other material. that has been transported by trucking or earth moving equipment, erosion by water, or other means onto paved streets shall be promptly removed. f. Asphalt, oil, water or suitable chemicals shall be applied on materials stockpiles, and other surfaces that can give rise to dust emissions. g. All earthmoving activities shall cease when sustained winds exceed 15 miles per hour. h. The operator shall take reasonable precautions to prevent the entry of unauthorized vehicles onto the site during non-work hours. i. The operator shall keep a daily log of activities to control fugitive dust.				
	<b>3.6-A.2</b> The proposed development will require the preparation of a detailed grading and erosion control plan subject to review and approval by the County prior to earth moving activities (Municipal	Project Construction Manager	Issuance of Building, Grading or Other	Planning Dept.	Planning Dept.

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	Code section 18.70.060 – Grading Permit Requirements). Grading will be completed in compliance with County standards.		Permits		During and at Completion of construction
	<p><b>3.6-A.3</b> Dust control rules and regulations as required by the MCAQMD will be adhered to (Rule 1-200, 1-400(a), 1-410, 1-420, 1-430). These regulations minimize fugitive dust particle during construction. Measures imposed by the MCAQMD include, but not limited to:</p> <ul style="list-style-type: none"> <li>• All visibly dry disturbed soil surfaces shall be watered to minimize fugitive dust.</li> <li>• Installation of a “stabilized construction entrance/exit” as detailed in the Department of Transportation storm water handbook (TC-1) will be utilized.</li> <li>• Earth or other material tracked on to neighboring paved roads shall be removed promptly.</li> <li>• Dust generating activities will be limited during periods of high winds (over 15 mph).</li> <li>• Access of unauthorized vehicles onto the construction site during non-working hours shall be prevented.</li> <li>• A weekly log shall be kept of fugitive dust control measures that have been implemented.</li> </ul>	Project Construction Manager	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  During and at Completion of construction

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<ul style="list-style-type: none"> <li>• Restrict idling of diesel engines on the site to less than 5 minutes.</li> <li>• All haul trucks transporting soil, sand or other loose materials off-site shall be covered.</li> <li>• All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>• Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at access points.</li> <li>• All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</li> <li>• Post a publicly visible sign with telephone number for the applicant's representative regarding dust complaints. This person shall respond and take corrective action within 48 hours. The MCAQMD phone number shall also be visible to ensure compliance with applicable regulations.</li> </ul>				

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<b>3.6-A.4</b> All off road construction equipment with engines greater than 50 horsepower (hp) and operating on the site for more than two days or 20 hours shall meet, at a minimum, U.S. EPA particulate matter emission standards for Tier 4 engines or equivalent. In the event that such equipment is not available, the use of Tier 3 construction equipment is sufficient so long as it can be demonstrated to the County that similar Tier 4 construction equipment is not readily available	Project Construction Manager	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  During and at Completion of construction
	<b>3.6-A.5</b> The applicant shall submit a Construction and Demolition Waste Management Plan (CWMP) to the Mendocino Solid Waste Management Authority prior to the start of construction-related activities in accordance with Mendocino Solid Waste Management Authority requirements (Ordinance 4301). The CWMP will outline measure to capture and recycle materials that would otherwise end up in the waste stream.	Project Construction Manager	Issuance of Building, Grading or Other Permits	Planning Dept.  MSWMA	Planning Dept.  During and at Completion of construction
<b>3.6-F:</b> The project will use more energy and thereby generate greenhouse gas emissions that would adversely affect the global climate.	<b>3.6-F.1</b> The project shall minimize the emission of greenhouse gases by including at least the following: <ul style="list-style-type: none"> <li>The project shall be constructed to incorporate the 2010 Title 24 building standards (or whatever standards have been adopted at the time that building permits are issued).</li> </ul>	Project Applicant	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Completion of construction

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<ul style="list-style-type: none"> <li>Project residential units shall be oriented for maximum solar access. Roofs shall be constructed to allow easy and efficient retrofitting with roof-top solar panels.</li> <li>The project applicant shall ensure that the CC&amp;Rs of the Homeowner's Association develops and maintains energy- and water-efficient practices for the common areas of the subdivision and follows a landscaping plan that does not impair the efficient operation of the solar collection facilities.</li> </ul>				
	<p><b>3.6-F.2</b> All residences would be constructed in accordance with the most recent edition of Title 24 of the California Building Code (CBC). The CBC contains mandatory requirements that apply to residential buildings that will be a part of the project which include: high performance attics insulation and walls, high efficacy lighting, windows, water heating and HVAC systems. Specific energy conservation features include:</p> <ul style="list-style-type: none"> <li>Structures will incorporate natural cooling by utilizing window overhangs, awnings, front and rear patios, shade from neighboring structures, radiant heat-reflective barriers in the attic and appropriate tree plantings or a combination thereof.</li> </ul>	Project Applicant	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Completion of construction

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<ul style="list-style-type: none"> <li>Structures will be constructed in compliance with solar requirements found in Title 24 of the California Building Code.</li> <li>Project will incorporate Energy Star Certified Appliances. At a minimum, the following appliances are recommended to be Energy Star rated: dishwasher and water heater.</li> <li>Natural lighting may be incorporated into the home through solar tubes and sky lights.</li> <li>Windows, sky lights and other fenestration will meet energy code requirements and will be Energy Star certified. These elements will have low U-factor (U-value) rating. U-factors is a rate of non-solar heat loss or gain through a while window assembling. The lower the U-factor, the greater a window's resistance to heat flow and the better its insulating value.</li> <li>Project will incorporate the use of low flow toilets and faucets that meet the standards as set forth by the California Energy Commission.</li> <li>All landscaping will be installed to AB 1881 (The Water Conservation in Landscaping Act of 2006) standards, which promotes water efficiency and conservation, using mulch, bubblers, and timed sprinkler systems.</li> </ul>				



Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<p><b>3.6-F.3</b> The following features shall be included in the Modified Project to reduce GHG emissions:</p> <ul style="list-style-type: none"> <li>• No fireplaces;</li> <li>• Include solar power for each of the residential lots (not quantified);</li> <li>• No natural gas hookups;</li> <li>• Include infrastructure to promote electric car charging (i.e., provide 220VAC outlets);</li> <li>• Meet latest CalGreen Title 24 standards);</li> <li>• Include energy efficient appliances;</li> <li>• Include low-flow water fixtures; and</li> <li>• Include water-efficient irrigation systems (drip systems).</li> </ul>	Project Applicant	Issuance of Building, Grading or Other Permits	Planning Dept.	Planning Dept.  Completion of construction
<b>NOISE</b>					
<p><b>3.7-A:</b> The east end of the project could be exposed to excessive noise.</p>	<p><b>3.7-A.1:</b> Project-specific acoustical analyses shall be required to confirm that outdoor activity areas are provided with Ldn values at or below 60 dBA, and interior Ldn values will not exceed 45 dBA. Sound insulation measures, including any mechanical ventilation systems needed to permit closed windows, should be designed by an experienced acoustical consultant and incorporated into construction documents submitted for permits.</p>	Project Applicant	Prior to approval of final map for Phases 1 and 2 (east end of project site)	Planning Dept.	Planning Dept.  Issuance of Building Permits

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
<p><b>3.7-C:</b> Construction of project improvements would generate construction noise over a period exceeding one year.</p>	<p><b>3.7-C.1:</b> Project construction shall not cause excessive noise. To accomplish this standard, the following measures are required:</p> <ul style="list-style-type: none"> <li>• Noise-generating activities at the construction site or in areas adjacent to the construction site associated with the project in any way should be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. No construction activities should occur on weekends or holidays.</li> <li>• Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</li> <li>• Unnecessary idling of internal combustion engines should be strictly prohibited.</li> <li>• Locate stationary noise generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise generating equipment when located near adjoining sensitive land uses.</li> <li>• Utilize "quiet" air compressors and other stationery noise sources where technology exists.</li> <li>• Control noise from construction workers' radios, CD players, etc. to a point that they are</li> </ul>	Project Applicant	During construction of all phases of the project.	Planning Dept.	<p>Planning Dept.</p> <p>Completion of construction</p>

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<p>not audible at existing residences bordering the project site.</p> <ul style="list-style-type: none"> <li>Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.</li> <li>Notify existing residents when especially noisy operations are scheduled near their property, allowing the residents to plan activities accordingly. Examples of especially noisy sources: heavy earth moving equipment, jack hammers, pile drivers.</li> </ul>				
<b>AESTHETICS</b>					
<b>3.8-A:</b> The project would replace views from South State Street and other vantage points east of the site	<b>3.8-A.1:</b> Final project design and landscape plan shall undergo design review by the County Department of Planning and Building Services and/or the County Planning Commission to ensure consistency with the design guidelines adopted for this project. The final project shall be	Project Applicant	Upon submittal of project site and landscaping, park, and	Planning Dept.	Planning Dept.  Prior to issuance of building permits

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
of open space with views of residential development.	revised, if requested, to comply with the County's review recommendations.		initial building plans,		
	<b>3.8-A.2:</b> Landscaping will be mature within 15 years of initial project construction (Phase 1). Mature means that perimeter trees shall be at least 20 feet tall. The final landscape plan shall include tree landscaping along the north and east sides of the site using species that fully screen views from the east and screens at least half of the buildings on the north side. The plan shall include specifications for planting, irrigating, fertilizing, and replacing dead trees so that the landscaping will be mature within 15 years.	Project Applicant	Development Agreement	Planning Dept.  Mendocino County Water Agency	Planning Dept.  Mendocino County Water Agency  15 years after project completion
<b>3.8-C:</b> The project would replace views from Gobalet Lane, residences north of Gobalet Lane, and residences south of Oak Knoll Road of open space with views of residential development.	Mitigation Measures 3.8-A.1 and 3.8-A.2 apply to this impact.	See the cited mitigation measures			
<b>3.8-F:</b> New lighting on the project site will	<b>3.8-F.1:</b> The final design shall include a lighting plan that minimizes light escape from the site. The final plan shall become part of the CC&Rs for the	Project Applicant	Development Agreement	Planning Dept.	Planning Dept.

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
change nighttime views in the area.	<p>Homeowners Association. This plan shall include the following:</p> <ol style="list-style-type: none"> <li>1. Light shielding is required. Except as otherwise exempt, all outdoor lighting fixtures shall be constructed with full shielding. Shielding shall prevent the light source from being visible to adjacent residential properties.</li> <li>2. Minimum/Maximum Level of Illumination. The minimum and maximum levels of illumination permitted are listed below. A photometric study listing the number; type, height, and level of illumination of all outdoor lighting fixtures shall be required prior to issuance of a building permit or site improvement plans to ensure compliance with these provisions.               <ol style="list-style-type: none"> <li>a. Minimum security lighting for sidewalks, walkways, parking areas, and similar areas shall be 1.0 foot-candles, measured at ground level, not to exceed 3.0 foot-candles on average.</li> <li>b. In order to minimize light trespass on abutting property, illumination measured on the property line of a subject parcel shall not exceed 0.5 foot-candles, measured on a vertical plane along the property line.</li> <li>c. Building-mounted decorative or security lights shall not exceed 5.0 foot-candles, measured a distance of five feet from the light source. All buildings lighting shall be reviewed and</li> </ol> </li> </ol>				Issuance of Building Permits

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<p>authorized by Mendocino County prior to the initiation of lighting installation.</p> <p>3. Maximum Height of Outdoor Light Fixtures. The maximum height of freestanding outdoor light fixtures for multi-family residential development and non-residential development abutting a single-family residential zoning district or use shall be 20 feet. Otherwise, the maximum height for freestanding outdoor light fixtures shall be 25 feet.</p> <p>4. Type of illumination. All outdoor lighting fixtures shall be energy efficient. Energy efficient lights include all high-intensity discharge lamps (mercury vapor, high-pressure sodium, low-pressure sodium, and metal halide). The concentrated and/or exclusive use of either low-pressure sodium or metal halide lighting is prohibited.</p> <p>5. Hours of illumination. Automatic timing devices shall be required for all outdoor light fixtures on multi-family residential and non-residential development (e.g., parks) with off hours (exterior lights turned off) between 11:00 p.m. and 6:00 a.m. Exceptions are that outdoor lights may remain on in conjunction with the hours of operation of the corresponding use, for security purposes, or to illuminate walkways, roadways, equipment yards, and parking lots.</p> <p>6. Prohibited Lighting. The following outdoor light fixtures shall be prohibited as specified below.</p>				

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<ul style="list-style-type: none"> <li>a. Lighting of parks for active nighttime recreation.</li> <li>b. Uplighting/back-lit canopies or awnings.</li> <li>c. The concentrated and/or exclusive use of either low- pressure sodium or metal halide lighting</li> <li>d. Neon tubing or band lighting along building structures</li> <li>e. Searchlights.</li> <li>f. Flashing lights.</li> <li>g. Illumination of entire buildings. Building illumination shall be limited to security lighting and lighting of architectural features authorized by the designated Approving Authority in conjunction with the required development permit(s).</li> <li>h. Roof mounted lights except for security purposes with motion detection and full shielding so that the glare of the light source is not visible from any public right- of-way.</li> </ul>				
<b>PUBLIC SERVICES AND INFRASTRUCTURE</b>					
<b>3.9-C:</b> Development of the project would increase the demand for police response	<b>3.9-C.1:</b> The final project design shall be reviewed by the Sheriff's Office to determine if it provides adequate access, security lighting, and other factors affecting police response. The final map	Project Applicant	Final Subdivision Map	Mendocino County Sheriff's Office	Sheriff's Office Planning Dept.

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
by the Mendocino County Sheriff's Office and by the Ukiah Police Department and would increase demand on other portions of the criminal justice system.	shall incorporate security measures required by the Sheriff's Office.				Issuance of Building Permits
<b>3.9-F:</b> New development resulting from the project and other new development in the area would increase the demands on the Ukiah Valley Fire District and the emergency medical response system possibly require the construction of new facilities.	<b>3.9-F.1:</b> If the County has not adopted additional funding for the EMS system at the time of approval of the Development Agreement, then the applicant shall agree within the Development Agreement to pay any fees that the County adopts for EMS funding prior to and/or within five years of approval of the Development Agreement.	Project Applicant	Development Agreement	Planning Dept.	Planning Dept. .  Issuance of Building Permits
<b>3.9-H:</b> The project would contribute to the need for a new water	<b>3.9-H.1:</b> The applicant shall enter into an agreement with the Willow County Water District to pay a capital improvement fee (estimated at	Project Applicant	Development Agreement	Planning Dept.	Planning Dept.  Willow CWD



Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
storage facility.	\$400,000) to fund the project's share of the replacement and expansion of the Fircrest Drive water storage tank.			Willow CWD	Issuance of Building Permits
<b>3.9-M:</b> The project would increase the plan area population, thereby increasing the demand for parks and recreational facilities. This increased demand could result in significant deterioration of existing facilities and the need for new or expanded facilities.	<b>3.9-M.1:</b> Construct and maintain a "tot lot" with playground equipment on one of the two project parks. The tot lot will be maintained by the Homeowner's Association.	Project Applicant	Development Agreement	Planning Dept.	Planning Dept.  Issuance of Building Permits
	<b>3.9-M.2</b> The Neighborhood Park and the contours of the detention basin shall be modified to establish suitable terrain for a multi-purpose playing field that provides a minimum of 100' x 200' of level playing area.	Project Applicant	Development Agreement	Planning Dept.	Planning Dept.  Issuance of Building Permits
<b>3.9-O:</b> Future development could be placed in locations where people and structures would be exposed to potential wildland fires.	<b>3.9-O.1:</b> The project shall be designed and constructed to minimize risk of wildfire destroying residences. The Ukiah Valley Fire District shall review project plans and determine in writing that adequate access, emergency response, and fire flow are available, and that the project complies with the most current State requirements for development in the wildland/urban interface. Final	Project Applicant	Conditions of Approval	Ukiah Valley Fire District  Planning Dept.	Ukiah Valley Fire District  Planning Dept.  Issuance of Building Permits

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	project design shall conform with any changes that the District requires.				
<b>3.9-R:</b> Toxic materials and wastes on the site could pose a risk to human health.	<b>3.9-R.1:</b> All potential toxic wastes and materials shall be removed and/or remediated prior to site grading. The applicant shall do the following, as recommended in the Phase I Environmental Site Assessment: <ul style="list-style-type: none"> <li>Abandon any inoperable water supply wells on the site following all the requirements of the Mendocino County Division of Environmental Health.</li> <li>Collect soil samples in the area of the former underground storage tank and the aboveground fuel storage tank. The soil samples shall be tested for Total Petroleum Hydrocarbons as gasoline and the constituents benzene, toluene, ethylbenzene; xylenes, fuel oxygenates, lead scavengers, and total lead. Results of the testing shall be provided to the Mendocino County Division of Environmental Health. If the Division determines that additional testing or remediation is required, the applicant shall fulfill all County requirements.</li> <li>If volatile organic compounds are discovered on the site, a human health risk</li> </ul>	Project Applicant	Conditions of Approval	Mendocino County Division of Environmental Health	Mendocino County Division of Environmental Health  Planning Dept.  Prior to issuance of Grading Permit

Impact	Mitigation Measure	Implemented by	Implemented when	Monitored by	Verified by and date
	<p>assessment will be performed per requirements of the County Division of Environmental Health. That assessment will identify measures needed to ensure that workers and future residents are not exposed to County- and State- defined harmful levels of these compounds.</p> <ul style="list-style-type: none"> <li>• Dispose of any waste oil, lubricants, paints, or other liquids in accordance with all applicable regulatory requirements.</li> <li>• Investigate the fuel source for the prune dryer that formerly was located on the west side of the site to determine its fuel source. If it was gasoline, then conduct soil tests at that site as described above.</li> <li>• Assess whether the workshop/storage building has the potential for lead paint or asbestos. If so, then demolition shall follow all requirements established by the Mendocino County Division of Environmental Health.</li> </ul>				

**EXHIBIT F****FORM OF ASSIGNMENT**

OFFICIAL BUSINESS

Document entitled to free recording  
Government Code Section 6103RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

County of Mendocino

\_\_\_\_\_

\_\_\_\_\_

Attn: County Clerk

(SPACE ABOVE THIS LINE RESERVED FOR  
RECORDER'S USE)**ASSIGNMENT AND ASSUMPTION AGREEMENT  
RELATIVE TO BELLA VISTA SUBDIVISION**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, the "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ (hereinafter "Landowner"), and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter "Assignee").

**RECITALS**

On \_\_\_\_\_, 20\_\_\_\_, County of Mendocino and Landowner entered into that certain agreement entitled "Second Restated Development Agreement By and Between County of Mendocino and Rancho Yokayo, LP, Relative to the Development known as Bella Vista Subdivision (hereinafter the "Second Restated Development Agreement"). Pursuant to the Second Restated Development Agreement, Landowner agreed to develop certain property more particularly described in the Second Restated Development Agreement (hereinafter, the "Subject Property"), subject to certain conditions and obligations as set forth in the Restated Development Agreement. The Second Restated Development Agreement was recorded against the Subject Property in the Official Records of Mendocino County on \_\_\_\_\_, 20\_\_\_\_, as Instrument No. 20\_\_\_\_-\_\_\_\_\_.

Landowner intends to convey a portion of the Subject Property to Assignee, commonly referred to as Parcel \_\_\_\_\_, and more particularly identified and described in Exhibit A and Exhibit B, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel").

Landowner desires to assign and Assignee desires to assume all of Landowner's right, title, interest, burdens and obligations under the Second Restated Development Agreement with respect to and as related to the Assigned Parcel.

### **ASSIGNMENT AND ASSUMPTION**

NOW, THEREFORE, Landowner and Assignee hereby agree as follows:

Landowner hereby assigns, effective as of Landowner's conveyance of the Assigned Parcel to Assignee, all of the rights, title, interest, burdens and obligations of Landowner under the Second Restated Development Agreement with respect to the Assigned Parcel. Landowner retains all the rights, title, interest, burdens and obligations under the Second Restated Development Agreement with respect to all other property within the Subject Property owned by Landowner.

Assignee hereby assumes all of the rights, title, interest, burdens and obligations of Landowner under the Second Restated Development Agreement with respect to the Assigned Parcel, and agrees to observe and fully perform all of the duties and obligations of Landowner under the Second Restated Development Agreement with respect to the Assigned Parcel. The parties intend hereby that, upon the execution of this Second Restated Development Agreement and conveyance of the Assigned Parcel to Assignee, Assignee shall become substituted for Landowner as the "Landowner" under the Second Restated Development Agreement with respect to the Assigned Parcel.

All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

The Notice Address described in Section 13.11 of the Second Restated Development Agreement for the Landowner with respect to the Assigned Parcel shall be:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

IN WITNESS HEREOF, the parties hereto have executed this Second Restated Development Agreement as of the day and year first above written. This Second Restated Development Agreement may be signed in identical counterparts.

LANDOWNER:

ASSIGNEE:

RANCHO YOKAYO, LP  
 a California limited partnership

\_\_\_\_\_,  
 a \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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 the document.

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_ (insert name and title of the officer), 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 the document.

State of California

County of \_\_\_\_\_

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

Legal Description of Exterior Boundaries of Lands Associated with The  
Development of Bella Vista Estates Subdivision

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## EXHIBIT "A"

### LEGAL DESCRIPTION

Any and all lands and any and all interest thereto lying within the following described real property.

All that real property situate in the unincorporated area of the County of Mendocino, State of California, and lying within Lot 72 and Lot 91, Yokayo Rancho, described as follows;

Beginning at a point North 19°36'49" West a distance of 42.50 feet from a ½" iron pipe as shown on "Parcel Map of Minor Subdivision No. 23-93", filed in Map Case 2, Drawer 58, Page 77 and 78, Mendocino County Records, marking the west line of South State Street and the north line of Lot 91, Yokayo Rancho, said point being the TRUE POINT OF BEGINNING; thence along the west line of South State Street South 19°36'49" East a distance of 719.25 feet; thence North 89°32'30" West a distance of 260.53 feet; thence South 19°33'13" East a distance of 114.82 feet to the south line of Lot 91 of said Rancho; thence along said south line North 89°33'29" West a distance of 2,777.28 feet to the west line of Lot 91 of said Rancho; thence along said west line, North 00°41'37" East a distance of 705.86 feet to the north line of said Lot 91; thence along said north line, North 89°39'29" East a distance of 459.93 feet; thence leaving said north line, North 13°22'55" West a distance of 113.24 feet; thence North South 78°38'48" East a distance of 283.32 feet; thence South 08°48'30" East a distance of 53.47 feet to said north line of Lot 91; thence along said north line North 89°39'29" East a distance of 1,347.87 feet; thence leaving said north line North 17°47'26" West a distance of 42.06 feet; thence North 89°39'29" East a distance of 694.41 feet to the POINT OF BEGINNING.

Containing 48.8 acres, more or less.

APN: 184-120-21, 184-110-28, 184-110-29, 184-120-01 and a portion of 184-033-15.

BASIS OF BEARINGS: California Coordinate System Zone 2 (NAD 83). A Bearing of North 16°27'08" West between NGS monuments (PID KT2296 and PID KT2012 both with epoch date 1991.35).

Prepared by,





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**Bradley A. Thomas**, PLS 5520  
My License Expires: 9/30/2022  
File No. 9100.06  
13 June e2022

See also Exhibit B, Sheet 2 of 2

Sheet 1 of 2



## EXHIBIT B

