

**SANTA ROSA REDEVELOPMENT AGENCY  
REQUEST FOR QUALIFICATIONS  
(FORMER AT&T BUILDING)**

**OUTLINE FORM OF PROPOSED AGREEMENT**

[Subject to changes mutually agreed upon by Agency and Developer]

**PROJECT PLANNING AND  
EXCLUSIVE RIGHTS TO NEGOTIATE AGREEMENT**

**(Former AT&T Building, 520 Third Street, Downtown Santa Rosa)**

**By and Between**

**SANTA ROSA REDEVELOPMENT AGENCY**

**and**

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**[TO BE INSERTED BASED ON FINAL DRAFT]**

**DEFINED TERMS**  
**[WHERE FIRST USED]**

[TO BE INSERTED BASED ON FINAL DRAFT]

**PROJECT PLANNING AND EXCLUSIVE RIGHTS TO NEGOTIATE AGREEMENT  
(Former AT&T Building, 520 Third Street, Downtown Santa Rosa)**

This Project Planning and Exclusive Rights to Negotiate Agreement (this "Agreement") is entered into as of \_\_\_\_\_, 2009 (the "Effective Date") by and between the Redevelopment Agency of the City of Santa Rosa, a public body, corporate and politic (the "Agency"), and \_\_\_\_\_ "Developer" (Developer and Agency are referred to individually in this Agreement as a "Party" and collectively as the "Parties").

**RECITALS**

A. The City Council of the City of Santa Rosa adopted the Santa Rosa Center Project Redevelopment Plan (Calif. R-45) in 1963 by Ordinance No. 1036 (as amended from time to time, the "Redevelopment Plan"), which affects that certain real property described in the Redevelopment Plan (the "Project Area").

B. The Agency is responsible for implementation of the Redevelopment Plan.

C. The Agency is the owner of the former AT&T Building at 520 Third Street (the "Property") located in downtown Santa Rosa within the Project Area.

D. Developer has responded to a request for qualifications ("RFQ") and has been selected by the Agency to undertake a collaborative planning process with the Agency to analyze the feasibility of potential uses and the development potential for the Property and to develop a preferred development program for the Property, including alternatives (which may include one or more adjacent or nearby properties ("Adjacent Properties") with the approval of the Agency and with the consent of the owner(s), which would then be subject to environmental analysis required by the California Environmental Quality Act ("CEQA"). Following completion of the required CEQA analysis, the Parties may then enter into negotiation and preparation of agreements and other transactional documents ("Project Agreements") providing for the timing and terms of disposition and development of the Property (the "Project," which may also include one or more Adjacent Properties subject to the approval of the Agency and with the consent of the owner(s) for consideration of approval by the Agency Board (collectively, with the CEQA documentation, any land use entitlements, and the Project Agreements, the "Project Approvals").

E. Prior to the execution of this Agreement, the Developer has provided to the Agency its organizational documents and members of its team. Also, prior to the execution of this Agreement, representatives of the Agency have reviewed financial, performance and experience information concerning the Developer and concluded that the Developer has made financial and staffing commitments that provide the Developer with the capabilities of undertaking the tasks for which it is responsible under this Agreement and meeting its financial obligations under this Agreement.

F. The Agency and Developer desire to enter into this Agreement to provide for a period of exclusive negotiations for the Developer to work collaboratively with the Agency to undertake and complete the tasks contemplated by this Agreement.

G. In entering into and implementing this Agreement, the Agency Board is not committing the Agency to any particular project or to approval of any Project or to grant any Project Approvals, and any such decision is reserved to the Agency Board in its sole and absolute discretion following CEQA compliance.

## **AGREEMENT**

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

### **ARTICLE I.**

#### **PARTIES TO THIS AGREEMENT; DEVELOPER'S DEPOSIT**

Section 1.1. Agency.

[Describe Agency and members of Agency team]

Section 1.2. Developer.

[Describe Developer and members of Developer team]

Section 1.3. Developer's Deposit

Developer has deposited with the Agency a cashier's check in the amount of \$50,000.00 (the "Deposit") to assure the Developer's performance under the terms of this Agreement. The Agency will return the Deposit to the Developer after the Developer provides evidence satisfactory to the Agency that it has incurred costs (exclusive of Developer's overhead and administration) of not less than \$100,000.00 in the performance of services under this Agreement. The Agency shall not be required to earn interest on the Deposit while it is held by the Agency, but any interest actually earned shall be credited to the Deposit. If not returned to the Developer, the Deposit may be retained by the Agency as provided in Section 5.3.

### **ARTICLE II.**

#### **TERM OF THIS AGREEMENT**

Section 2.1. Effective Date.

This agreement is entered into as dated above which is the date of approval of this Agreement by the Agency Board (the "Effective Date") following selection of the Developer pursuant to the RFQ.

Section 2.2. Term.

The term of this Agreement ("Term") shall commence on the Effective Date and shall terminate on \_\_\_\_\_, 20\_\_, subject to Extensions under Section 2.4 and/or

Termination under Section 5.1. [Note: may be changed by mutual agreement of Agency and Developer following Developer selection and prior to execution of this Agreement.]

Section 2.3. Milestone Target Dates.

During the Term of this Agreement, the Parties shall use reasonable good faith efforts to accomplish certain of the tasks under Article IV within the times set forth in the Schedule of Milestone Target Dates, attached hereto as Exhibit A and incorporated herein by reference. [Note: Milestone Dates to be mutually agreed to by Agency and Developer following Developer selection and prior to execution of this Agreement.]

Section 2.4. Extensions of Term.

(a) The Parties recognize that the Term in Section 2.2 and Milestone Target Dates in Exhibit A are currently reasonable estimates of the times that will be required to complete the various tasks called for under this Agreement and that circumstances beyond the reasonable control of the Parties, or either of them, may require an extension of time to complete one or more of such tasks contemplated under this Agreement despite their good faith efforts. Therefore, subject to earlier termination as provided in Section 5.1, the Developer may request that the Agency agree to an extension of the Term of this Agreement and/or Milestone Target Dates. Requests for extensions shall be in writing and made to the Executive Director of the Agency who shall have the authority to approve extensions on behalf of the Agency. The Executive Director shall approve an extension if the extension is reasonably necessary to allow completion of tasks to be undertaken pursuant to this Agreement and the need for the extension is not due to the lack of diligence or lack of payment on the part of the Developer, provided, however, in no event shall the Term be extended beyond \_\_\_\_\_ pursuant to this subsection (a) of this Section 2.4. The foregoing shall not preclude extensions pursuant to subsection (b), subsection (c) or subsection (d) of this Section 2.4.

(b) The Parties may also extend the Term or any of the Milestone Target Dates by mutual agreement of the Parties set forth in writing. If Developer requests an extension of the Term, the Developer shall have the right to present its request to the Agency Board in a public meeting of the Agency Board.

(c) If litigation is filed challenging the validity of or seeking to enjoin an action taken by the City or Agency to approve any of the Project Approvals, then the Term and/or Milestone Dates shall be extended for the period of time the Parties determine is reasonably necessary to complete the tasks described in this Agreement in light of the pendency of the litigation, the orders issued in the litigation and the risks of the litigation.

(d) If Developer is not in default under this Agreement, the Term of this Agreement and any subsequent Milestone Dates shall be extended for the period of time the Parties determine is reasonably necessary (i) after completion and circulation of a environmental analysis under CEQA for the Project, to complete the environmental analysis and provide for Agency Board consideration of certification of such environmental analysis, (ii) to schedule and hold public meetings of the Agency Board for consideration of the Project Approvals, or (iii) to

allow the expiration of any referendum period before which a Project Approval becomes legally effective.

### **ARTICLE III.**

#### **PLANNING AND NEGOTIATION PROCESS**

##### **Section 3.1. Section 3.1 Public Policy Objectives for the Property.**

The Agency Board has expressed a strong preference that the existing building comprising the Property be retained, but has directed that no special preference be given to the full range of public objectives that are listed below, and that for any objective, the Agency encourages a proposed development to be financially self-sufficient (i.e., to acknowledge the economic reality of any viable real estate project as a development reuse which is able to attract investors and lenders). The range of public policy objectives include:

- 24-hour Downtown / Living (i.e., apartments or condominiums);
- Employment / Job Center (i.e., Class A or B office);
- Out of Town Visitors / City Revenue (TOT, Sales tax) (i.e., hotel, conference center);
- Attract Local Shoppers / City Revenue (Sales tax) (i.e., retail); and
- Public Use/ Non-Profit / Education (i.e., museum, cultural arts facility, UC Extension, library, post office, government offices, etc.).

##### **Section 3.2. General Plan Designation and Zoning.**

The Property is included in the Downtown Station Area Specific Plan. The General Plan land use designation for the Property is Retail and Business Service which allows retail and service enterprises, offices and restaurants, and housing. Residential densities are unrestricted, except as may be constrained by height limit. This Property has a 148 foot height limit as set forth in an easement in favor of the adjacent AT&T site. The general maximum height limit in this area is 150 feet and 10 floors.

According to the City Zoning Ordinance, the Property is zoned CD-10 (Downtown Commercial). The CD-10 zoning district is applied to the Santa Rosa downtown, to provide for a mixture of ground-floor pedestrian-oriented shops, personal and business services, restaurants, and other office and commercial uses that serve the entire city and/or neighborhoods surrounding the downtown. Residential units may be developed in either a free-standing project, or incorporated into a mixed use project. The CD-10 zoning district is consistent with and implements the Mixed Use and Retail and Business Services land use classifications of the General Plan.

During the planning process, Agency staff may recommend any necessary amendments to the Redevelopment Plan to allow all uses permitted under the City's General Plan and the City Zoning Ordinance for the Property.

Section 3.3. The Planning and Negotiating Process.

Phase 1: With participation of Agency staff, Developer will conduct due diligence, preliminary planning and use analysis in a collaborative process involving stakeholders and interested parties, and economic feasibility analysis (including analysis of any public financial participation subject to Agency approval) with the Agency staff for the adaptive reuse of the Property.

During Phase 1, Developer may contact and negotiate with owners of "Adjacent Properties" for possible inclusion of one or more of the Adjacent Properties in planning and feasibility analysis of a joint development of the Property and one or more Adjacent Properties on terms mutually acceptable to the Developer and Agency.

The Agency expects to be an active participant with the selected Developer in the preliminary due diligence, planning and feasibility process envisioned under Phases 1 and 2.

Phase 2: Based on the results of Phase 1, Developer will develop with the Agency staff, for conceptual approval by the Agency Board, a tentative preferred development program, with alternatives, for the Property (which may also include one or more of the Adjacent Properties, subject to the approval of the Agency and with the consent of the owner(s)).

Phase 3: Unless the preferred development program, including alternatives, will meet the requirements for a categorical exemption, preparation and completion of environmental analysis, to the extent required, under the California Environmental Quality Act (CEQA). It is the intent of the Agency to work with the Developer to mitigate, to the extent reasonably possible, the cost of any analysis required under CEQA and the allocation, if any, of these costs between the Agency and the Developer will be determined during the planning and feasibility stage.

Phase 4: Negotiate terms and conditions of a Disposition and Development Agreement for the Property (which may also include one or more of the Adjacent Properties, subject to the approval of the Agency and with the consent of the owner(s)).

**ARTICLE IV.**

**OBLIGATIONS OF THE PARTIES**

Section 4.1. Exclusive Negotiations; General Requirements.

During the term of this Agreement, and subject to and in compliance with the provisions of this Agreement, the Agency and Developer shall negotiate in good faith and shall diligently cooperate with each other in implementation of this Agreement. During the term of this Agreement, the Agency and Developer shall work and negotiate exclusively with each other and shall not entertain proposals from or negotiate with any other persons concerning planning or development of the Property except as shall be mutually agreed upon by the Agency and Developer with respect to the Property or any Adjacent Properties.

Section 4.2. Specific Obligations of Developer.

[TO BE INSERTED BASED ON RESPONSE OF DEVELOPER TO RFQ AS MUTUALLY AGREED UPON]

Section 4.3. Specific Obligations of Agency.

[TO BE INSERTED BASED ON RESPONSE OF DEVELOPER TO RFQ AS MUTUALLY AGREED UPON.]

Section 4.4. Project Meetings.

Unless otherwise requested by the Agency, the Parties shall schedule regular Project meetings at least twice a month during the Term of this Agreement for the purpose of exchange of information, negotiations, and related matters. The Parties further contemplate reporting on progress under this Agreement to the members of, or subcommittees of, the Agency Board from time to time as appropriate to obtain their input and comment.

Section 4.5. Review of Developer Financial Information.

Annually, at the request of the Agency, the Developer shall provide for Agency review of updated financial information concerning the Developer and its members. The information may be provided or reviewed in accordance with the confidentiality provisions of Section 6.9.

Section 4.6. Provision, Retention and Ownership of Documents.

[TO BE INSERTED PRIOR TO EXECUTION AS MUTUALLY AGREED UPON.]

**ARTICLE V.**

**TERMINATION OF AGREEMENT**

Section 5.1. Termination.

This Agreement shall terminate upon any of the following events, subject, as applicable, to the provisions of Section 5.2 and Section 5.3.

(a) Upon the occurrence of all of the following: (i) certification of the complete and final environmental analysis for the Project; (ii) final approval by the Agency (and City, if required) of the Project Approvals; (iii) execution of the Project Agreements by the Parties; and (iv) expiration of all referendum, appeal or challenge periods without a referendum petition or appeal being filed or a challenge brought by a third party over any of the Project Approvals, including but not limited to a challenge to the Project Approvals or any of them under CEQA.

(b) At any time following the completion of the tasks under Section 3.3 for Phase 1, by the Developer, in its sole business judgment, upon giving not less than thirty (30) days prior written notice to the Agency that it is not feasible to proceed with planning or negotiations under this Agreement; provided, that immediately upon receipt of such notice, the Agency may stop

any or all activity and incurring of costs and the Parties shall meet and confer during such 30-day period to consider any mutually acceptable alternatives to termination of this Agreement.

(c) At any time following the completion of the tasks under Section 3.3 for Phase 1, by the Agency, in its sole business judgment, upon giving not less than thirty (30) days prior written notice to the Developer that it is not feasible to proceed with planning or negotiations under this Agreement; provided, that immediately upon giving of such notice, the Developer and the Agency may stop all activity and incurring of costs and the Parties shall meet and confer during such 30-day period to consider any mutually acceptable alternatives to termination of this Agreement.

(d) By the Agency if the Developer shall default in or fail to negotiate in good faith or to perform any material obligation under this Agreement; provided, however, that the Agency shall not terminate this Agreement unless it has first given Developer written notice of the default or failure (citing the specific reasons therefor) and a period of at least thirty (30) days (or such longer period as shall be reasonably required under the circumstances) to cure or diligently commence to cure the default or failure. The Agency shall not terminate this Agreement pursuant to this subsection (d) unless it has first given Developer the opportunity to make an oral and written presentation to the Agency Board at a regular or special meeting of the Agency Board as to the reasons the Developer believes this Agreement should not be terminated. The Agency shall give the Developer at least ten (10) days prior notice of the Agency Board meeting. Termination under this subsection (d) shall be accomplished by the Agency giving written notice of termination to the Developer and shall be effective upon receipt of such notice by the Developer.

(e) By the Developer (without prejudice to its rights to terminate this Agreement under subsection (b) of this Section 5.1) if the Agency shall default in or fail to negotiate in good faith or to perform any material obligation under this Agreement; provided, however, that the Developer shall not terminate this Agreement unless it has first given the Agency written notice of the default or failure (citing the specific reasons therefor) and a period of at least thirty (30) days (or such longer period as shall be reasonably required under the circumstances) to cure or diligently commence to cure the default or failure. Such termination shall be accomplished by the Developer giving written notice of termination to the Agency if the default or failure remains uncured, and shall be effective upon receipt of such notice by the Agency. If the Agency is presented with but, in the exercise of its independent discretion, does not approve a Project Approval, such failure shall not be a default or failure to negotiate in good faith under this subsection (e).

(f) By the Developer or the Agency if the Agency, in the exercise of its independent discretion, shall fail to approve any or all of the matters constituting the Project Approvals; provided, however, that a Party shall not terminate this Agreement under this subsection (f) unless it has given the other Party a written notice of intent to terminate the Agreement and a period of at least sixty (60) days (or such longer period as the Parties may agree is reasonable under the circumstances) has elapsed from the giving of the notice of intent. Such termination shall be accomplished by the Developer or the Agency, as the case may be, giving written notice of termination to the other Party and shall be effective upon receipt of such notice by the other Party.

Section 5.2. Effect of Termination.

(a) Except as provided below in Section 5.3, upon the termination of this Agreement pursuant to Section 5.1, neither Party shall have any further rights or obligations under this Agreement. No damages shall be available for breach or failure under this Agreement; provided, however, that (i) all indemnities in this Agreement shall survive the termination with respect to actions occurring prior to the date of termination, and (ii) all amounts, if any, owing under this Agreement at or before the notice of termination shall remain owing.

Section 5.3. Disposition of Deposit.

Upon Termination of this Agreement for any reason pursuant to Section 5.1, and if the Developer is not entitled to return of the Deposit as of the date of termination pursuant to Section 1.3, the Deposit (including any interest earned thereon) shall be released to and become the property of the Agency without offset or reduction for any cause or reason.

[INSERT LIQUIDATED DAMAGES CLAUSE TO BE INITIATED BY THE PARTIES]

**ARTICLE VI.**

**GENERAL PROVISIONS**

Section 6.1. Limitation on Effect of Agreement.

This Agreement (and any extension of this Agreement) shall not obligate the Agency or Developer to agree to any Project Approvals, to enter into any particular Project Agreement, or to enter into a Project Agreement on or containing any particular terms. By execution of this Agreement (and any extension of this Agreement), the Agency is not committing itself to or agreeing to approve any Project Approval, undertake disposition or lease of the Property or any part thereof, or undertake any other acts or activities relating to the subsequent independent exercise of discretion by the Agency. Execution of this Agreement by the Agency is merely an agreement to conduct a period of exclusive negotiations diligently and in good faith in accordance with the terms hereof, reserving for subsequent Agency action the final discretion and approval regarding any Project Approval or Project Agreement and all proceedings and decisions in connection therewith including consideration of any changes to the General Plan, City zoning or the Redevelopment Plan. Any Project Approval or Project Agreement resulting from negotiations pursuant to this Agreement shall become effective only if and after such Project Approval or Project Agreement has been considered and approved by the Agency Board, in its sole discretion, following conduct of all legally required procedures, including, without limitation, all required environmental review processes and all other applicable governmental approvals. Unless and until all necessary Project Approvals and Project Agreements have been approved by the Developer and approved by the Agency Board, and executed by the relevant Party or Parties, no agreement drafts, actions, term sheets, outlines, deliverables, memoranda or other communications arising out of or in the course of performance of this Agreement shall impose any legally binding obligation on any Party to agree to any Project Approval or to enter into any Project Agreement or be used as evidence of any oral or implied agreement or promise to agree to any Project Approval or enter into any Project Agreement or other legally binding

document. As such, the Agency retains the absolute discretion before taking action on the Project by the Agency Board to (i) subject to the mutual agreement of the Parties, make such modifications to the Project Approvals or any of the Project Agreements and the Project as may be necessary to mitigate significant environmental impacts or as may otherwise be necessary or appropriate; (ii) select other feasible alternatives to avoid significant environmental impacts; (iii) balance the benefits against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided; or (iv) determine not to proceed with the Project. The Parties also understand and agree that the fact that a property that is or becomes subject to this Agreement is not owned by the City or Agency does not constitute any commitment by either the City or the Agency to acquire such parcel or grant any right of any sort on the part of the Developer to acquire or develop such parcel except as may be expressly provided in the Project Agreements.

Section 6.2. Notices.

Formal notices, demands and communications between the Agency and the Developer shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested, or sent by express delivery or overnight courier service, to the office of the Parties shown as follows, or such other address as the Parties may designate in writing from time to time:

Agency: Santa Rosa Redevelopment Agency

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Developer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Section 6.3. Delivery of Reports.

The Developer shall provide the Agency with copies of all reports, studies, analyses, correspondence, and similar documents, prepared or commissioned by the Developer with respect to this Agreement and the Project, promptly upon their completion.

Section 6.4. Progress Reports.

From time to time as reasonably agreed upon by the Parties, each Party shall make oral or written progress reports advising the other Party on studies being made and matters being evaluated by the reporting Party with respect to this Agreement and the Project.

Section 6.5. Waiver of Lis Pendens.

It is expressly understood and agreed by the Parties that no lis pendens shall be filed against any portion of the Property with respect to this Agreement or any dispute or act arising from it.

Section 6.6. Right of Entry.

The Developer shall have the right to enter the Property during normal business hours to conduct investigations in accordance with this Agreement. In connection with such entry and investigation, the Developer shall:

- (a) give the Agency reasonable advance notice;
- (b) minimize any interference with ongoing City or Agency operations;
- (c) repair and restore any damage it may cause;
- (d) deliver to the Agency, within ten (10) days of receipt thereof, a complete copy of any investigation, test, report or study which the Developer conducts, or causes to be conducted, with respect to the Property; and
- (e) indemnify, defend and hold the Agency and its directors, officers, employees and agents harmless from any and all claims, liabilities, damages, losses, expenses, costs and fees (including attorneys' fees and costs) which may proximately arise out of the Developer's entry upon the Parcels or the investigation(s) and test(s) which the Developer may conduct; provided, however, that this indemnity shall not apply to matters arising from the results of the Developer's investigations, tests and inspections (*e.g.*, this indemnity shall not apply to any diminution in value or remediation costs incurred by the Agency if the Developer's investigations were to discover an environmental condition that required remediation).

Section 6.7. Costs and Expenses.

Except as otherwise expressly provided in this Agreement, each Party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement, and the performance of each Party's obligations under this Agreement.

Section 6.8. No Commissions.

Each Party represents and warrants that it has not entered into any agreement, and has no obligation, to pay any real estate commission in connection with the transaction contemplated by

this Agreement and any resulting Project Agreement. If a real estate commission is claimed through either Party in connection with the transaction contemplated by this Agreement or any resulting Project Agreement, then the Party through whom the commission is claimed shall indemnify, defend and hold the other Party harmless from any liability related to such commission. The provisions of this section shall survive termination of this Agreement.

Section 6.9. Confidentiality of Information.

While desiring to preserve its rights with respect to treatment of certain information on a confidential or proprietary basis, the Developer acknowledges that the Agency will need sufficient, detailed information about the economic feasibility of any proposed Project to make informed decisions about the content and approval of the Project Agreements. The Agency will work with the Developer to maintain the confidentiality of proprietary information subject to the requirements imposed on the Agency by the Public Records Act (Government Code Section 6253 *et seq.*). The Developer acknowledges that the Agency may share information provided by the Developer of a financial and potential proprietary nature with third party consultants who have been contractually engaged to advise the Agency concerning matters related to this Agreement and to the Agency Board members as part of the negotiation and decision making process. If this Agreement is terminated without obtaining final approvals of the Project Approvals, the Agency shall return to the Developer any confidential information submitted by the Developer under this Agreement. If any litigation is filed seeking to make public any information Developer submitted to the Agency in confidence, the Agency and Developer shall cooperate in defending the litigation. The Developer shall pay the Agency's costs of defending such litigation and shall indemnify the Agency against all costs and attorneys fees awarded to the plaintiff in any such litigation. Promptly after receipt, the Agency shall inform Developer of any request received for confidential or proprietary information that Developer has provided to the Agency.

The Parties may enter into a separate confidentiality agreement to further effectuate the purposes of this Section 6.9 with respect to specific information or types of information; provided that the absence of any such confidentiality agreement shall not modify or excuse compliance by the Parties with the provisions of this Section 6.9.

Notwithstanding the above, Developer understands and agrees that during the implementation of this Agreement, including but not limited to public presentations to the Agency Board regarding certain actions to move forward with a preferred development program and alternatives or consideration of Project Approvals and Project Agreements, the Agency's staff and its economic consultants may be required to submit to the Agency Board their financial analysis of the proposed Project and alternatives including assumptions being made in a pro-forma for the Project, sources and uses of funding for the Project and other economic terms and assumptions bearing on the ability of the Developer and Agency to carry out the Project. This analysis and information will be prepared for consideration by the Agency Board in public sessions and such information will be a matter of public record. Such presentations will be the work of the Agency staff and its economic consultants and, to the extent possible, will not reference proprietary information of the Developer without the Developer's consent.

Section 6.10. Assignment.

The Developer shall not transfer or assign any or all of its rights or obligations under this Agreement except with the prior written consent of the Agency, which consent shall be granted or withheld in the Agency's sole discretion, and any such attempted transfer or assignment without the prior written consent of Agency shall be void. Assignments under the Project Approvals, including Project Agreements, shall be governed by the provisions of the Project Approvals and those agreements.

Section 6.11. General Indemnity.

Each of the Parties (individually, an "Indemnitor") shall indemnify, defend and hold the other Party (individually, an "Indemnitee") and their respective officers, employees, agents and contractors harmless from any and all claims, liabilities, damages, losses, expenses, costs and fees (including attorneys' fees and costs) which arise out of the performance of this Agreement by the Indemnitor or its directors, officers, employees, agents or owners; provided, however, that this indemnification obligation shall not extend to any matters to the extent arising from the negligence or willful misconduct of an Indemnitee or its respective officers, employees, agents and contractors.

Section 6.12. Governing Law.

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

Section 6.13. Entire Agreement.

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

Section 6.14. Counterparts.

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

Section 6.15. No Third Party Beneficiaries.

This Agreement is made and entered into solely for the benefit of the Agency and the Developer and no other person shall have any right of action under or by reason of this Agreement.

Section 6.16. Nonliability of Agency and Developer Officials and Employees.

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

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

Section 6.17. Warranty of Authority.

Developer hereby covenants and warrants that it is a duly authorized and existing \_\_\_\_\_ in good standing and qualified to do business in the State of \_\_\_\_\_; that it has full right, power and authority to enter into this Agreement; that the execution, delivery and performance of this Agreement were duly authorized by proper action of each and no consent, authorization or approval of any person is necessary in connection with such execution and delivery or to carry out all actions contemplated by this Agreement except as have been obtained and are in full force and effect, and that the individuals executing this Agreement have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the Developer.

Section 6.18. Exhibits.

The following Exhibits are attached to this Agreement and by reference made a part hereof:

Exhibit A: Milestone Target Dates

Exhibit B: Estimated Budget for Phases 1 and 2

**[SIGNATURES OF FOLLOWING PAGE]**

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

APPROVED AS TO FORM:

AGENCY:  
SANTA ROSA REDEVELOPMENT AGENCY

By: \_\_\_\_\_  
Agency Counsel

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

DEVELOPER:  
\_\_\_\_\_

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

and

By: \_\_\_\_\_  
It's: \_\_\_\_\_

EXHIBIT A

MILESTONE TARGET DATES

[TO BE MUTUALLY AGREED UPON BY AGENCY AND DEVELOPER AND INSERTED  
PRIOR TO APPROVAL OF THIS AGREEMENT BY THE AGENCY]

EXHIBIT B

ESTIMATED BUDGET FOR PHASES 1 AND 2

[TO BE MUTUALLY AGREED UPON BY AGENCY AND DEVELOPER AND INSERTED  
PRIOR TO APPROVAL OF THIS AGREEMENT BY THE AGENCY