DISPOSITION AND DEVELOPMENT AGREEMENT

by and between

THE REDEVELOPMENT AGENCY OF THE CITY OF RICHMOND

and

ORTON DEVELOPMENT, INC.

ASSEMBLY BUILDING

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DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (the "Agreement") is made on or as of November 18, 2003 by and between the Redevelopment Agency of the City of Richmond, a public body corporate and politic (the "Agency") and Orton Development, Inc., a California corporation (the "Developer").

RECITALS

A. Pursuant to authority granted under California law, the Agency has the responsibility to implement the Redevelopment Plan for Project Area 11-A (Harbour) adopted by Ordinance No. 10-75 N.S. of the City Council of the City of Richmond on June 9, 1975, as amended (the "Redevelopment Plan"), incorporated into this Agreement by reference.

B. The Redevelopment Plan affects and controls the development and use of all real property located within that area in the City of Richmond, Contra Costa County, California, more particularly described and set forth in the Redevelopment Plan (the "Project Area").

C. The Agency is the owner of a parcel of real property within the Project Area consisting of approximately 26 acres and commonly known as 1414-1422 Harbour Way South (the "Site") as illustrated on the Site Map attached as Exhibit A. The Site is comprised of the following: (i) the Ford Assembly Building, an approximately 517,000 square foot historic landmark structure (the "Building") (ii) a parking area located to the north of the Building (the "North Parking Area"); (iii) an adjacent approximately 7,000 square foot brick structure known as the Oilhouse (the "Oilhouse"); (iv) an adjacent pier structure known as the Craneway (the "Craneway"); and (v) approximately 1.7 acres of submerged land (the "Water Area").

D. Pursuant to this Agreement, the Agency intends to convey to the Developer the Building and surrounding area, the Oilhouse, the North Parking Area and the Water Area (collectively the "Property") as more particularly shown and described in the attached Exhibit B.

E. The Craneway is encumbered by the public trust for commerce, navigation and fisheries (the "Trust"). The Agency and the City have entered into a Title Settlement and Exchange Agreement (the "Exchange Agreement") with the State Lands Commission (the "SLC"). The Exchange Agreement establishes the Trust requirements to which the Craneway is subject. The City shall lease the Craneway to the Developer subject to the SLC requirements imposed by the Exchange Agreement.

F. In response to the Agency's Request For Proposals dated July 7, 2003, the Developer submitted a proposal to acquire and develop the Property and Craneway (the "Proposal"). Pursuant to the Proposal the Developer proposes to rehabilitate the Building and develop the Property and as a mixed use development including live/work lofts, commercial /office space, and public-serving uses, together with related facilities as more fully described in this Agreement, and to develop the Craneway with public-serving uses consistent with SLC trust

restrictions (the "Project"). Developer's development of the North Parking Area portion of the Property shall be subject to further community and City council planning processes.

G. The Agency has found that the development of the Property and the Craneway pursuant to this Agreement is consistent with the General Plan of the City of Richmond, the applicable zoning requirements of the City of Richmond, and the Redevelopment Plan.

H. The purpose of this Agreement is to provide a mechanism whereby the Developer shall acquire, own, and redevelop the Property and lease and redevelop the Craneway, all as more particularly set forth below. It is for this reason that the conditions for development on the Property and the Craneway have been set forth in this Agreement.

I. The Developer has represented that it possesses the necessary expertise, skill and ability to carry out the commitments contained in this Agreement and that this Agreement is in the best interests and will materially contribute to the implementation of the Redevelopment Plan.

J. As set forth in Section 3.2 of this Agreement, the Agency has not approved, nor will it approve, the Project until all required environmental reviews under the California Environmental Quality Act and the National Environmental Policy Act have been completed.

K. The Agency has prepared the report required by, and has conducted a joint public hearing with the City Council of the City of Richmond, pursuant to California Health and Safety Code Section 33433 with respect to the sale of the Property to the Developer for redevelopment. The City Council has made the findings required pursuant to California Health and Safety Code Section 33433 with respect to such sale.

L. The redevelopment of the Property pursuant to this Agreement will serve Redevelopment Plan goals and objectives by alleviating the existing blight on the Property and within the Project Area and is consistent with the Agency's Implementation Plan.

THEREFORE, the Agency and the Developer agree as follows:

AGREEMENT

ARTICLE 1. PARTIES, FACTS AND DEFINITIONS

1.1 Definitions: The following terms shall have the following meanings in the Agreement:

(a) "Agency" means the Redevelopment Agency of the City of Richmond, which is a public body, corporate and politic, exercising governmental powers and organized and existing pursuant to the California Community Redevelopment law (Health and Safety Code Section 33000 et seq.). The principal office of the Agency is 1401 Marina Way South, Richmond, CA 94804. "Agency" as used in this Agreement includes the Redevelopment Agency of the City of Richmond and any assignees of or successors to its rights, powers and responsibilities.

(b) "Agency Deed of Trust" shall mean the deed of trust recorded in third lien position on the Property at the Closing to secure the Agency Note and the Developer's obligation to make participation payments to the Agency pursuant to Article 8, in a form to be provided by the Agency.

(c) "Agency Note" shall mean the promissory note payable to the Agency to be executed and delivered by the Developer to the Agency evidencing the Developer's obligation to make participation payments to the Agency as set forth in Article 8, in a form to be provided by the Agency.

(d) "Agreement" means this Disposition and Development Agreement, including the attached Exhibits and all subsequent amendments to the Agreement.

(e) "Approved Security Interest" means a mortgage, deed of trust, or other reasonable method of security encumbering the Property that (i) meets the requirements of this Agreement, and (ii) secures any loan and/or refinancing approved by the Agency in connection with the approval of the Financing Plan.

(f) "Bankruptcy/Insolvency Event" means any of the following:

(1) Insolvency. A court having jurisdiction shall have made or entered any decree or order (i) adjudging the Developer to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of the Developer or seeking any arrangement for the entity in question under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of the Developer in bankruptcy or insolvency or for any of its properties, or (iv) directing the winding up or liquidation of the Developer, if any such decree or order described in clause (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days unless a lesser time period will apply under this subsection; or the Developer shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive.

(2) Assignment; Attachment. The Developer shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) days after such event or prior to sooner sale pursuant to such sequestration, attachment or execution.

(3) Suspension; Termination: The Developer shall have voluntarily suspended its business or fails to maintain its good standing.

(g) "BCDC" means the San Francisco Bay Conservation and Development Commission.

(h) "BEDI Grant" means the Brownsfield Economic Development Initiative grant from the Agency to the Developer in the amount of One Million Five Hundred Thousand Dollars ($1,500,000).

(i) "Building" means the approximately 517,000 square foot historic landmark structure known as the Ford Assembly building, a portion of the Property located on the Site as shown on the Site Map.

(j) "Building Permit" means all building permits for the Project required to be obtained from the City or other governmental entities.

(k) "CEQA" means the California Environmental Quality Act, Sections 21000 et seq. of the Public Resources Code and the CEQA Guidelines set forth at 14 California Code of Regulations Sections 15000 et seq.

(l) "Certificate of Completion" means the certificate issued by the Agency to the Developer after completion of the Project in accordance with the provisions set forth in Section 6.11 of this Agreement.

(m) "City" means the City of Richmond, a charter city.

(n) "Closing" means the date on which the Property and the Craneway is conveyed to the Developer pursuant to Article 4.

(o) "Construction Contracts" means, collectively, all the contracts between the Developer and any general contractor(s) covering the construction of the Project.

(p) "Craneway" means the portion of the Site constructed on pilings at the waterfront of the Building as shown on the Site Map, to be leased to the Developer by the City subject to SLC requirements.

(q) "Deposit" means the amount to be advanced by the Developer to the Agency pursuant to Section 2.5.

(r) "Design Development Documents" means the documentary expression of the preliminary design concepts for the Project which shall include both (1) preliminary site plan and elevations, and (2) a detailed narrative. The Design Development Documents shall address the footprint and general location on the Property and the Craneway of the Project, the number of buildings and the height, size, bulk and number of stories or building, the interior layout, the mix of proposed uses by square footage on each floor, the style and quality of architectural treatment, the materials used on the exterior of the Project, the access and pedestrian and traffic circulation features (including location and methods of ingress and egress), the preliminary façade treatment, an all other relevant design factors.

(s) "Design Guidelines" means the Knox Freeway/Cutting Boulevard Corridor Specific Plan requirements applicable to the Property and the Craneway.

(t) "Developer" means the Developer identified on page 1 of this Agreement. The Developer represents the following to be true and correct: the Developer is Orton Development, Inc. a California corporation. "Developer" as used in this Agreement means Orton Development, Inc., and any authorized and approved successors and assigns pursuant to this Agreement. The principal office of the Developer is 3049 Research Drive, Richmond, CA 94806.

(u) "Escrow Holder" means the Walnut Creek branch of First American Title Company or such other title company as may be mutually agreed to by the Agency and the Developer.

(v) "Event of Default" means an event of default described in Sections 11.3 and 11.4.

(w) "Exchange Agreement" shall have the meaning set forth in Recital E.

(x) "FEMA" means the Federal Emergency Management Agency.

(y) "Final Construction Plans" means all construction documentation upon which the Developer and its contractors shall rely in building the Project. The Final Construction Plans shall include, without limitation, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specification (also known as "working drawings" and commonly referred to in the construction industry as "Construction Documents"), and a time schedule for construction. The Final Construction Plans shall include the mitigation measures set forth the in the attached Exhibit C and any other measures required by any public entity as a condition of any permits or Land Use Approvals required for the Project.

(z) "Financing Plan" Shall have the meaning as provided in Section 2.9.

(aa) "First Source Agreement" shall have the meaning as provided in Section 6.12, a form of which is attached as Exhibit J.

(bb) "Grant Deed" means the grant deed by which the Agency shall convey the Property in whole or in part to the Developer, substantially in the form of the attached Exhibit C.

(cc) "Hazardous Materials" means any substance, material, or waste which is: (1) defined as a "hazardous waste", "hazardous material", "hazardous substance", "extremely hazardous waste", "restricted hazardous waste", "pollutant" or any other terms comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos and asbestos containing materials; (4) polychlorinated biphenyls; (5) radioactive materials; (6) MTBE; or (7) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety, property or the environment.

The term "Hazardous Materials" shall not include: (i) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of commercial properties, buildings and grounds, or typically used in household activities, or (ii) certain substances which may contain chemicals listed by the State of California pursuant to California Health and Safety Code Section 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Project, including but not limited to, alcoholic beverages, aspirin, tobacco products, nutrasweet and saccharine, so long as such materials and substances are stored, used, and disposed of in compliance with all applicable Hazardous Materials Laws.

(dd) "Hazardous Materials Laws" means all federal, state, and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials.

(ee) "HUD" means the U.S. Department of Housing and Urban Development.

(ff) "HUD Loan Documents" shall mean the documents evidencing the Section 108 Loan and BEDI Grant entered into by and between the Agency and HUD.

(gg) "HUD Funds" means the Section 108 Loan and the BEDI Grant.

(hh) "Land Use Approvals" means any governmental or regulatory approvals, permits or authority for the Project, other than the Building Permit, and including without limitation, approvals from SLC, BCDC, SHPO and the City.

(ii) "NEPA" means the National Environmental Policy Act.

(jj) "North Parking Area" shall mean that portion of the Property to be developed by the Developer as shown on the Site Map, subject to the City and community planning process as further set forth in Section 7.13.

(kk) "NPS" means the National Park Service.

(ll) "Off-Site Improvements" shall have the meaning set forth in Section 6.6 below.

(mm) "Oilhouse" means the approximately 7,000 square foot brick structure adjacent to the Building, and part of the Property as shown on the Site Map.

(nn) "Performance and Payment Bonds" means bonds issued by a surety authorized to do business in California and approved by the Agency and/or City, such approval not to be unreasonably withheld, delayed or conditioned, to secure performance of the general contractor, subcontractors, and the work so bonded and to fund completion of any bonded work in the event the contractor so bonded is unable to complete its performance.

(oo) "Permitted Exceptions" means those liens, encumbrances, and matters on the title to the Property shown on the Preliminary Title Report, this Agreement, and the Grant Deed and other exceptions required in connection with the approval of the Project and conveyance of the Property, as approved by the Developer and the Agency, all as set forth in Exhibit I.

(pp) "PMA" means the Program Management Agreement entered into by and between the Agency and the Developer dated November 4, 2003, concerning the performance of the Refit Work.

(qq) "Preliminary Title Report" means the following: Preliminary Title Report, number 780717CC, dated June 20, 2003 issued by First American Title Company.

(rr) "Project" means the historic rehabilitation of the Ford Assembly Building and the Craneway into live/work lofts, commercial /office space, and public-serving uses, park and open space and pedestrian, bicycle and vehicular access and circulation, as more particularly described in the Scope of Development attached as Exhibit D. The Project also includes any ancillary facilities to be constructed, landscaping improvements.

(ss) "Project Area" means the redevelopment project area established pursuant to the Redevelopment Plan.

(tt) "Property" means the Building, the Oilhouse, the North Parking Area, the Water Area and surrounding landscaped area as described in Exhibit B.

(uu) "Purchase Price" has the meaning given in Section 4.3(b).

(vv) "Redevelopment Plan" means the Amended and Restated Redevelopment Plan for Project Area 11-A (Harbour) adopted by City Council Ordinance No. 10-75 N.S. on June 9, 1975, as amended, and as it now exists or may hereafter be amended.

(ww) "Refit Work" means the historic preservation, seismic strengthening and remediation work to be performed by the Developer prior to Closing, pursuant to the PMA.

(xx) "Schedule of Performance" means the summary of the performance obligations of the Developer and the Agency required by this Agreement to be performed prior to the issuance of the Certificate of Completion for the Project. The Schedule of Performance is attached as Exhibit E and is included for ease of reference only. It is not intended to in any way modify this Agreement.

(yy) "Scope of Development" means the description of the Project set forth in the attached Exhibit D.

(zz) "Section 108 Loan Deed of Trust" shall mean the deed of trust recorded against the Property in second lien position at Closing, securing the Developer's obligation to repay to the Agency the Section 108 Loan.

(aaa) "Section 108 Loan" means the Loan from the Agency to the Developer of up to Three Million Dollars ($3,000,000).

(bbb) "Section 108 Loan Note" means the promissory note payable to the Agency to be executed and delivered by the Developer to the Agency evidencing the Developer's obligation to repay the Section 108 Loan, in a form to be provided by the Agency.

(ccc) "SHPO" means the State Historic Preservation Officer.

(ddd) "Site" means the approximately 26-acre site on which the Property, the Craneway and certain other improvements are located as more particularly shown on the Site Plan.

(eee) "Site Investigation Reports" shall mean the reports governing physical assessment of the Property attached to this Agreement as Exhibit H, and provided to the Developer as further set forth in Section 2.6.

(fff) "Site Map" means the diagram attached to this Agreement as Exhibit A showing the Site.

(ggg) "SLC" means the State Lands Commission.

(hhh) "Term" means the term of this Agreement, commending on the date of this Agreement and ending on the earlier to occur of (1) the expiration date of the effectiveness of the Redevelopment Plan (currently, July 13, 2029), or (2) the date of any termination of this Agreement in accordance with the provisions hereof.

(iii) "Transfer" means, except as expressly excluded below:

(1) Any total or partial sale, lease, assignment or conveyance, or any trust or power, or any transfer in any other mode or form with respect to this Agreement or of the Property or any part thereof or interest therein, or any contract or agreement to do any of the same; or

(2) Any total or partial sale, assignment or conveyance, any trust or power, or any transfer in any other mode or form, of or with respect to the membership interest in the Developer or any member of the Developer or any contract to any of the same, including without limitation, any transfer or sale of any interest in the Developer for financing purposes unless approved by the Agency as part of the approved Financing Plan; or

(3) Any merger, consolidation, sale or lease of all or substantially all the assets of the Developer; or

(4) The leasing of part or all the Property; provided, however, that the leases of commercial or office space to tenants of the Property in the ordinary course of business by Developer shall not be deemed a "Transfer" for purposes of this Agreement.

(jjj) "Water Area" means the approximately 1.7 acre portion of the Property that is submerged under water as shown in the Site Map.

1.2 Exhibits. The following exhibits are attached to and incorporated by reference into this Agreement.

Exhibit A	Site Map
Exhibit B	Legal Descriptions of the Property and the Craneway
Exhibit C	Form of Grant Deed
Exhibit D	Scope of Development
Exhibit E	Schedule of Performance
Exhibit F	Preliminary Site Plan
Exhibit G	Insurance Requirements
Exhibit H	Site Investigation Reports
Exhibit I	Permitted Exceptions
Exhibit J	First Source Agreement

ARTICLE 2. DEVELOPER PRE-DISPOSITION REQUIREMENTS

2.1 Conditions Precedent. As conditions precedent to the Agency's selling and conveying the Property to the Developer, the City's lease of the Craneway to the Developer and the Developer's commencement of construction of the Project, the conditions set forth in this Article 2 must first be met by the times set for such conditions, unless such times are extended in writing by the Agency upon request of either party. Performance and achievement of the actions set forth in this Article 2 constitute conditions precedent to the Closing. Articles 3 and 4 set forth additional conditions precedent to the Closing. Satisfaction of these conditions depends on performance by the Developer. Only the Agency can waive satisfaction of the conditions in this Article 2.

2.2 CEQA/NEPA Documentation. Within sixty (60) days after the date of this Agreement, the Developer shall prepare and submit to the Agency such plans, specifications, drawings, and other information, as specified by the Agency, are reasonably necessary for the Agency to perform the environmental review process required by CEQA and NEPA, including any necessary archaeological or historical resource assessments. The Developer shall provide the Agency any updated documentation of the Project in order to facilitate the Agency's performance of the CEQA/NEPA review process.

2.3 Refit Work. The Developer and the Agency have entered into the PMA to accomplish certain Site clean up, remediation, seismic strengthening and weatherproofing work, as more fully set forth in the PMA. Developer's completion of the Refit Work in a manner satisfactory to FEMA and the Agency in their reasonable discretion shall be a condition precedent to the Agency's obligation to convey the Property to Developer. Notwithstanding the above, the Agency shall be solely responsible for compliance with all FEMA grant closeout and reporting requirements. The Developer shall provide FEMA representatives access to inspect the Property pursuant to Section 7.12 below.

2.4 Preliminary Site Plan.

(a) Prior to the Agency's consideration of this Agreement, the Developer submitted the Preliminary Site Plan to the Agency for review and approval. The approved Preliminary Site Plan is attached as Exhibit F. The Preliminary Site Plan shows the use of the Building by floor, the Craneway and the North Parking Area including the components called out in the Scope of Development. By execution of this Agreement, the Agency Board approves the Preliminary Site Plan.

(b) The Preliminary Site Plan reflects the goals and objectives of creating approximately 106 live/work units and related courtyards occupying approximately 160,000 square feet in the Building and 364,000 square feet of entertainment, office, commercial and visitor center space in the Building, the Oilhouse and the Craneway, while maintaining public access to the San Francisco Bay Trail and the waterfront.

(c) If, prior to submission of the Design Development Documents for the Project, the Developer desires to change the Project in any material manner which causes the Project not to be substantially in conformity with the distribution of uses in the Preliminary Site Plan, the Developer shall submit to the Agency Board ("Board") a revised Preliminary Site Plan for the Board's consideration. The Board shall review the revised Preliminary Site Plan and either approve or disapprove the revised Preliminary Site Plan within thirty (30) days after receipt. Any disapproval shall state in writing the specific reasons for the disapproval and specify in reasonable detail all of the changes the Agency requests be made in order to obtain approval. The Developer shall thereafter submit re-revised Preliminary Site Plan within thirty (30) days of notification of disapproval. The periods for submission of a revised Preliminary Site Plan and review and approval or disapproval by the Board shall continue to apply until a revised Preliminary Site Plan has been approved by the Board. When, and if, a revised Preliminary Site Plan has been approved, it shall form a part of this Agreement.

(d) The Agency acknowledges that the precise layout shown in the Preliminary Site Plan is for illustrative purposes, only, and that the number of units and locations of walls shall not be deemed material elements of the Preliminary Site Plan (and, therefore, changes thereto shall not require Agency approval) so long as the overall distribution of uses of the Property is not materially altered from the Preliminary Site Plan.

(e) The Agency further acknowledges that some uncertainty exists concerning the feasibility of developing residential live/work units in the Property due to life-safety and related issues. If the appropriate City building department official determines that the development of the proposed residential live/work units in the Project is infeasible due to life safety or seismic concerns the Agency agrees to negotiate in good faith exclusively with the Developer on the redesign of the Project for a period not to exceed ninety (90) days beginning on the date of the infeasibility determination by the City building department. In such redesign the Developer shall have the right to alter the distribution of uses in the Property to substitute other uses for residential live-work, subject only to compliance with all applicable requirements of SHPO, FEMA, City and other laws, rules and regulations. If at the end of such ninety (90) day period the parties reach agreement on a new design for the Project this Agreement shall terminate and the parties shall enter into a new disposition and development agreement setting forth the parties obligations as to the new project. If at the end of such ninety (90) day period the parties are unable in good faith to reach agreement, then at the option of either party, this Agreement may be terminated pursuant to the provisions of Section 11.2 below.

(f) Notwithstanding any other provision of this Agreement, it is mutually understood and agreed that unless the Agency, acting in its sole discretion, is willing to extend the date for Agency approval of Final Construction Plans for the Project, the Preliminary Site Plan must be approved by the Agency no later than ninety (90) days after date of this Agreement, or, at the option of either party, this Agreement may be terminated pursuant to the provisions of Article 11 below.

2.5 Developer Deposit. Upon execution of this Agreement the Developer shall deposit with the Agency the sum of One Million Dollars ($1,000,000), (the "Deposit"). The Deposit shall be available to the Developer to use only to pay for hard construction costs incurred by Developer under the PMA upon submission of a draw request consistent with the requirements set forth in Section 5.7(i) below, but only if the Developer has already expended at least Two Million Dollars ($2,000,000) of its own funds for work performed under the PMA. Notwithstanding Section 9(b) of the PMA, if this Agreement is terminated pursuant to Section 11.4 below, the portion of the Deposit expended by Developer under the PMA shall be nonrefundable. The portion of the Deposit not withdrawn by the Developer for use under the PMA shall be nonrefundable except as set forth in Sections 11.2 and 11.3 below. The portion of the Deposit remaining with the Agency at Closing shall be applied to the Purchase Price.

2.6 Site Investigation Reports.

(a) The Agency has, prior to the date of this Agreement, delivered to the Developer the Site Investigation Reports relating to the condition of the Site (including the potential presence of Hazardous Materials) as attached in Exhibit H. The Developer shall

review the Site Investigation Reports and shall notify the Agency in writing if it accepts the condition of the Property as set forth in the Site Investigation Reports within thirty (30) days after the date of this Agreement.

(b) The Agency has, prior to the date of this Agreement, provided to Developer an opportunity of conducting environmental assessments and other tests, as deemed necessary by Developer to satisfy Developer's due diligence. The Developer shall notify the Agency in writing if it accepts the condition of the Property and Craneway based on the Developer's own investigations within thirty (30) days after the date of this Agreement.

2.7 Design Development Documents.

(a) The Developer shall submit design development documents ("Design Development Documents") for the Project within sixty (60) days after the date of this Agreement. During the preparation of all plans and related documents, Developer shall communicate and consult informally, and shall hold regular progress meetings, as frequently as necessary to insure that the formal submittal of any plan or related document to the Agency can receive prompt consideration. The Design Development Documents shall be consistent with and in substantial conformity with the Project components set forth in the definition of Project in Section 1.1, the Scope of Development, the Preliminary Site Plan, the approved Preliminary Plans, the Redevelopment Plan, the Design Guidelines, and this Agreement.

(b) The Community and Economic Development Director shall review the proposed Design Development Documents and shall approve or disapprove the Design Development Documents within thirty (30) days after receipt. Any disapproval shall state in writing the specific reasons for disapproval and the specific changes the Agency Community and Economic Development Director reasonably requests be made in order to obtain Agency's approval. The Developer shall thereafter submit revised Design Development Documents to the Community and Economic Development Director for approval within forty-five (45) days after notification of disapproval. The Agency shall either approve or disapprove (as provided above) the revised Design Development Documents within thirty (30) days after receipt. If disapproved, the Developer shall have forty-five (45) days to submit further revised Design Development Documents.

(c) The periods for submission of revised Design Development Documents and review and approval or disapproval by the Agency shall continue to apply until Design Development Documents are agreed to by both parties. Notwithstanding any other provision of this Agreement, it is mutually understood and agreed that unless the Agency, acting in its sole discretion, is willing to extend the date for Agency approval of Final Construction Plans, Design Development Documents must be approved by the Agency no later than one hundred fifty (150) days after the date of this Agreement, or, at the option of either party, this Agreement may be terminated pursuant to the provisions of Article 11 below. The above time frames may be extended in writing by the Agency, in its sole discretion, providing that Developer is progressing in a reasonably timely fashion, upon written request from Developer.

(d) When the Design Development Documents have been approved by the Agency, they shall form a part of this Agreement. Only upon Agency approval of Design Development Documents shall this pre-disposition condition be deemed met.

(e) Any material change, modification, revision or alteration of the approved Design Development Documents shall be submitted immediately for approval by the Community and Economic Development Director, such approval not to be unreasonably withheld, delayed or conditioned. If not so approved, the previously approved Design Development Documents shall continue to control. A "material" change, modification, revision or alteration of the approved Design Development Documents is one that would substantially alter the previously approved location, design, height, size, or exterior appearance of the improvements, including but not limited to landscaping, parking, and ingress and egress improvements, to be constructed on the Property and Craneway. Changes to an individual tenant's improvements in the building's interior shall not be considered as a material change requiring additional approval providing the changes effect only the interior of the structure. The submission, review, and resubmission provisions of subsection (b) and (c), above shall apply until the Design Development Documents have been approved.

(f) Notwithstanding the foregoing, any change in the Design Development Documents made necessary to comply with the conditions of approval imposed in connection with Development Approvals or the Building Permits shall be deemed approved by the Agency if such change does not change the uses of the Property and Craneway as set forth in the previously approved Design Development Documents or does not materially alter the density for buildings on the Property and Craneway as set forth in the previously approved Design Development Documents.

2.8 Land Use Approvals.

Developer shall use commercially reasonable efforts to obtain all necessary Land Use Approvals within sixty (60) days after Agency's approval of the Design Development Documents. If Developer is not able to obtain all necessary Land Use Approvals with City-mandated conditions acceptable to Developer within said time period, Developer, at its election, may terminate this Agreement pursuant to Article 11.

2.9 Final Construction Plans.

(a) No later than sixty (60) days following the Agency's approval of the Design Development Documents, the Developer shall submit to the Agency its Final Construction Plans for the Project which shall meet the components set forth in the definition of Project in Section 1.1 and the Scope of Development. The Final Construction Plans shall be based upon the approved Land Use Approvals and the approved Design Development Documents and shall not materially deviate therefrom without the express written consent of the Agency.

(b) The scope of the Agency's review of the Final Construction Plans for the Project shall be limited to a determination of conformity with the approved Design Development

Documents and the Scope of Development for the Project, the exterior of the buildings (including height, size and bulk of buildings and location on the site), the interior layout, landscaping improvements, pedestrian and vehicular circulation facilities, including methods and location of ingress and egress, and the quality of design and materials for the Project.

(c) If the Final Construction Plans of the Project submitted to the Agency conform to the provisions of this Agreement, the approved Design Development Documents and the Redevelopment Plan, the Agency shall approve in writing such Final Construction Plans and no further filing of Final Construction Plans by the Developer or approval by the Agency thereof shall be required except with respect to any material change. Unless rejected by the Agency for their failure to comply with the foregoing requirements within sixty (60) days of submission by the Developer, the submitted Final Construction Plans shall be deemed accepted.

(d) If rejected by the Agency in whole or in part, the Developer shall submit new or corrected Final Construction Plans within thirty (30) days of notification of the Agency's rejection and the reasons therefor. The Agency shall then have fifteen (15) days to review and approve the Developer's new or corrected Final Construction Plans. The provisions of this Section 2.9 relating to time periods for approval, rejection, or resubmission of new or corrected Final Construction Plans shall continue to apply until Final Construction Plans have been approved by the Agency at which time they shall be attached to and become a part of this Agreement as if fully set forth herein. Only upon approval of the Final Construction Plans shall this pre-disposition condition be met.

(e) Notwithstanding any other provision of this Agreement, it is mutually understood and agreed that unless the Agency, acting in its sole discretion, agrees to extend the date for Agency approval of Final Construction Plans, Final Construction Plans must be approved by the Agency no later than eleven (11) months after the date of this Agreement, or, at the option of either party, this Agreement may be terminated pursuant to the provisions of Article 11 below.

(f) The parties further agree and understand that notwithstanding the time requirements set forth in this Article 2 for submissions to the Agency by Developer and review and approval of such items by the Agency, Developer is responsible for assuring that all items are submitted to the Agency in approvable form in a timely manner such that the Agency may have the time permitted by this Section 2.9 to review and approve Final Construction Plans no later than the dates set forth above.

(g) If the Developer submits Final Construction Plans in an approvable form and Agency, by complete inaction, neither approves nor disapproves within the time frames established for approval of Final Construction Plans, the Final Construction Plans, as submitted, shall be deemed approved and the Agency may not terminate the Agreement pursuant to Article Nine.

2.10 Financing Plan

(a) At the time the Developer submits its Design Development Documents for the Project to the Agency, the Developer shall submit for Agency approval evidence of the

availability of the funds necessary to acquire the Property and to redevelop the Property and Craneway (the "Financing Plan"). The Financing Plan shall include:

(i) An estimated cash flow projection, including an operating pro forma for the first five (5) years of operation;

(ii) An estimated cost breakdown for development and construction of the Project;

(iii) A copy of a commitment to execute a construction contract, approved and accepted by the Developer, containing a guaranteed maximum cost for construction of the Project, which specifies the expected guaranteed maximum cost;

(iv) A description of any joint ventures or partnerships the Developer proposes to enter into in order to provide funds for construction of the Project and acquisition of the Property, including copies of the proposed joint venture or partnership agreements prior to assigning this Agreement to such entity;

(v) A copy of the commitment or commitments obtained by the Developer for equity investments, loan or loans for interim construction financing (and permanent financing, if any) and other financing from external sources (including proposed joint ventures and partnerships), certified by the Developer to be a true and correct copy or copies thereof; and

(vi) A certified financial statement, other financial statement, or certification in writing from a financial institution doing business in California in which Developer has deposited funds or other forms of security, in such form reasonably satisfactory to the Agency evidencing other sources of capital sufficient to demonstrate that the Developer has adequate funds available and is committing such funds to cover the difference, if any, between costs of development and construction of the Project and acquisition of the Property and the amount available to the Developer from external sources.

(b) Upon receipt by the Agency of the proposed Financing Plan, the Agency shall promptly review the Financing Plan and shall approve or disapprove it within thirty (30) days after submission if it conforms to the provisions of this Agreement. The Agency's review of the Financing Plan shall be limited to determining if the financing contemplated in the Financing Plan would provide sufficient and reasonably available funds to undertake and complete the development and construction of the Project, to acquire the Property, and determining if it is consistent with the terms of this Agreement.

(c) If the Financing Plan is not approved by the Agency, the Agency shall set forth in writing and notify the Developer of the reasons therefor. The Developer shall thereafter resubmit a revised Financing Plan to the Agency for its approval within thirty (30) days of the Agency's notification of disapproval. The Agency will either approve or disapprove the revised Financing Plan within fifteen (15) days of resubmission by the Developer, and if disapproved, this Agreement may be terminated pursuant to Article Nine below. Only upon approval of a Financing Plan shall this pre-disposition condition be deemed met.

(d) The parties agree that notwithstanding the time requirements set forth in this Section 2.10 for submission and resubmission to the Agency by the Developer of a proposed Financing Plan and review and approval of the Financing Plan by the Agency, the Developer is responsible for assuring that a Financing Plan in approvable form is submitted to the Agency in a timely manner such that the Agency may have the time permitted by this Section 2.10 to review and approve a Financing Plan no later than eleven (11) months after the date of this Agreement.

(e) Prior to the recordation of the Certificate of Completion of the Project, any material change, modification, revision or alteration of the approved Financing Plan must first be submitted to and approved by the Agency for conformity to the provisions of this Agreement. If not so approved, the approved Financing Plan shall continue to control.

2.11 Building Permit. No later than ten (10) days after Developer receives the Agency's approval of the Final Construction Plans for the Project, Developer shall apply for, and make commercially reasonable efforts and obtain issuance of a building permit from the City allowing the construction of the Project on the Property and the Craneway called for in the Final Construction Plans. The Agency shall render all reasonable assistance to the Developer to obtain such Building Permit. At Developer's election, Agency agrees that Building Permits, consistent with the approved Final Construction Plans, may be pursued in phases to allow initiation of construction as early as possible. It is anticipated that potential phases may include (i) demolition, grading and foundation; and (ii) structure. Notwithstanding any other provision of this Agreement, it is mutually understood and agreed that unless the Agency, acting in its sole discretion, agrees to extend the date for application of the building permit, the Developer shall apply for building permit no later than one year (1) after the date of this Agreement, or, at the option of either party, this Agreement may be terminated pursuant to the provisions of Article 11 below.

2.12 Evidence of Availability of Funds. Within ten (10) days following the issuance of a Building Permit for construction of the Project, but no later than one year (1) after the date of this Agreement, the Developer shall submit to the Agency evidence reasonably satisfactory to the Agency that any conditions to release or expend funds described in the approved Financing Plan for the purpose of paying the costs of constructing of the Project and acquiring the Property and leasing the Craneway for the Project have been met or will be met at the Closing and that such funds will be available at or following the Closing for construction and reimbursement, if any, to the Agency.

2.13 Construction Contract.

(a) The Developer shall enter into contracts for the construction of the Project with reputable contractors. Those contracts may provide for the work to be performed for fixed and specified maximum amounts or allowances or for cost-of-the-work plus a fee, pursuant to the approved Final Construction Plans and the Financing Plan.

(b) Within ten (10) days following the issuance of a Building Permit for construction of the Project, the Developer shall submit a copy of all construction contracts to the

Agency's Community and Economic Development Director or a designee, on a confidential basis, for the sole and limited purposes of determining: (a) that the amount of the costs of work has been reasonably estimated and is consistent with the amount set forth in the approved Financing Plan; (b) that no changes to the provisions of the contract requiring the approval of Agency shall be made without the prior consent of the Agency's Community and Economic Development Director or a designee; and (c) that the covenants as to Equal Opportunity, Prevailing Wages and First Source hiring set forth in Sections 6.8, 6.9, and 6.12 of this Agreement have been met. Unless the Agency's Community and Economic Development Director or a designee notifies the Developer in writing within ten (10) days of submitting the contract(s) that the contract has been disapproved, it shall be deemed approved. Agency's approval shall merely constitute satisfaction of the conditions set forth in this Section 2.13.

(c) The Developer shall enter into Construction Contracts only with licensed contractors having the reputation, experience, skill, and financial capability and qualification for serving as the contractor on first-class construction projects of similar magnitude in Northern California.

(d) The parties agree that notwithstanding the time requirements set forth in this Section 2.13 for submission to the Agency by the Developer of the proposed construction contracts and review and approval of the construction contracts by the Agency, the Developer is responsible for assuring that the construction contracts in approvable form is submitted to the Agency in a timely manner such that the Agency may have the time permitted by this Section 2.13 to review and approve the construction contracts no later than one (1) year after the date of this Agreement.

2.14 Performance and Payment Bond(s). The Developer shall deliver to the Agency copies of any payment bonds or performance bonds(s) that may from time to time be required by the Developer's construction lender or for the construction of any required public improvements.

2.15 Insurance.

(a) The Developer shall submit to Agency evidence of the insurance coverage meeting the general requirements set forth in Section 12.9, below, not less than ten (10) days prior to initiating any work on the Property and Craneway. Agency shall review and reasonably approve or disapprove of the evidence of insurance not less than ten (10) days after submission of complete information in the form required by Agency or City. If Agency disapproves the evidence of insurance, it shall specify in writing the reasons for such disapproval. Developer shall resubmit the information required within fifteen (15) days. The review and submission periods shall continue to apply until Agency approves the evidence of insurance coverage. No work shall be initiated on the Property and Craneway prior to receipt of Agency's approval. Agency shall not unreasonably withhold, delay or condition approval of any insurance.

(b) Each contractor and each sub-contractor shall have furnished the Agency with evidence of the insurance coverage meeting the general insurance requirements set forth in

Section 12.9, below, prior to initiating any work on the Property and Craneway. The periods for submission, review and approval shall apply as stated in subsection (a) above.

(c) The parties agree that notwithstanding the time requirements set forth in this Section 2.15 for submission and resubmission to the Agency by the Developer of the evidence of insurance and review and approval of the evidence of insurance by the Agency, the Developer is responsible for assuring that the evidence of insurance in approvable form is submitted to the Agency in a timely manner such that the Agency may have the time permitted by this Section 2.15 to review and approve a Financing Plan no later than one (1) year after the date of this Agreement.

2.16 User Commitments. Upon the execution of this Agreement, Developer shall commence and shall diligently endeavor and use best efforts to negotiate lease commitments for all of the commercial space within the Project. The Developer shall submit periodic (but no less frequently than quarterly) reports on its leasing efforts and shall provide the Agency with copies of all leasing documents. The Developer shall secure, and deliver copies to the Agency of, the minimum number of commercial lease commitments required by any financing source by Closing.

2.17 Agency Note and Agency Deed of Trust. The Developer shall have signed, acknowledged where appropriate and delivered to the Escrow Holder a promissory note and deed of trust, in forms acceptable to the Agency, which provide for the Developer to make participation payments to the Agency as described in Article 8. Such Agency Deed of Trust shall be subordinated as provided in Article 8 below.

2.18 Section 108 Loan Note and Section 108 Loan Deed of Trust. The Developer shall have signed and delivered to the Escrow Holder a promissory note and deed of trust, in forms acceptable to the Agency which provide for the Developer to make payments to the Agency on the Section 108 Loan as described in Article 5. Such Section 108 Loan Deed of Trust shall be subordinated as provided in Article 5 below.

2.19 National Park Service Lease. Prior to Closing the Developer and the NPS shall have begun good faith negotiations of the lease described in Section 7.10 below.

2.20 Ferry Terminal Public Access Easement. At Closing, the Developer shall execute an easement agreement in a form acceptable to the City and Developer in their reasonable discretion granting the public access over that portion of the Property, necessary for access to the Richmond ferry terminal adjacent to the Site.

2.21 Certificate of Readiness and Completion Guarantee. Prior to commencement of construction and prior to the Closing, the Developer shall certify to the Agency that the Developer is ready, willing and able, in accordance with the terms of this Agreement, to meet its obligations with respect to acquisition of the Property, lease of the Craneway and the construction of the Project, and that all conditions precedent to the performance of such obligations and all other pre-disposition requirements of the Developer under this Agreement have been fulfilled. The

Developer shall also deliver to the Agency at this time, a Certificate of Readiness and Completion Guarantee, from J.R. Orton III, in a form acceptable to the Agency.

2.22 Cooperation in Securing HUD Funds. The Developer shall cooperate with the Agency in securing the HUD Funds and in the processing of all documents necessary for receipt of the HUD Funds including preparation of an appraisal of the Property acceptable to HUD.

ARTICLE 3. AGENCY PRE-DISPOSITION ACTIONS

3.1 Conditions Precedent. This Article 3 sets forth various actions that the Agency shall perform and achieve in order to enable conveyance of the Property and lease of the Craneway to the Developer in accordance with Article 4. Performance and achievement of the actions set forth in this Article 3 constitute conditions precedent to the Closing. Articles 2 and 4 set forth additional conditions precedent to the Closing.

3.2 CEQA/NEPA Review. Following execution of this Agreement, the Agency, at the Developer's sole cost and expense, shall diligently complete any required environmental review of the Project in accordance with CEQA and NEPA and the time frames set forth in the Schedule of Performance. The Developer acknowledges that the environmental review process under CEQA and NEPA will involve preparation and consideration of additional information as well as consideration of input from interested organizations and individuals; that approval or disapproval of the Project following completion of the environmental review process is within the sole, complete, unfettered and absolute discretion of the Agency without limitation by or consideration of the terms of this Agreement; and that the Agency makes no representation regarding the ability or willingness of the Agency to approve development of the Project at the conclusion of the environmental review process required by CEQA and NEPA, or regarding the imposition of any mitigation measures as conditions of any approval that may be imposed on the Project. The parties recognize that, as a result of the environmental review process, the Agency has the absolute discretion and right to terminate this Agreement, and no cost shall be incurred by the Agency as a result of such termination. In addition, the Developer acknowledges that any required approvals by any other local, state or federal agency may require additional environmental review, and that any approval by the Agency shall not bind any other local, state or federal agency to approve the Project or to impose mitigation measures which are consistent with the terms of this Agreement or with the terms of any mitigation measures required by the Agency pursuant to the Agency's environmental review.

3.3 Tidelands Exchange Agreement. Prior to Closing, the Agency shall formalize the Exchange Agreement with the City and the SLC.

3.4 Use of HUD Funds. Prior to Closing, the Agency shall comply with all HUD requirements in order to loan the HUD Funds to the Developer for the construction of the Project.

3.5 Craneway Lease. Prior to Closing the Agency shall use best efforts to have the City enter into a lease not to exceed fifty five (55) years with the Developer for the Craneway, which lease shall be in a form mutually acceptable to City and Developer and shall comply with

the requirements of Chapter 527 of Statutes 2000 governing the leasing of the Craneway by the City and SLC easement and use restrictions.

ARTICLE 4. DISPOSITION OF PROPERTY AND LEASE OF CRANEWAY

4.1 Sale and Purchase/Lease. Provided that all of the Developer's pre-disposition conditions have been met and all required actions taken in the manner and in the time set forth in Article 2, provided that all the Agency's pre-disposition conditions have been met and all required actions taken in the manner and in the times set forth in Article 3, and provided the condition set forth in Section 4.4 has been met, the Agency shall sell and convey the Property or portion thereof to the Developer, the Developer shall purchase and accept conveyance from the Agency of the Property, and the City and Developer shall enter into the lease of the Craneway pursuant to the terms, covenants, and conditions of this Agreement. The consideration for the purchase shall be as set forth in Section 4.3 below.

4.2 Opening Escrow. To accomplish the purchase and transfer of the Property and lease of the Craneway, the parties shall, within thirty (30) days after the date of this Agreement, establish an escrow with the Escrow Holder. The parties shall execute and deliver all written instructions to the Escrow Holder to accomplish the terms hereof, so long as such instructions are consistent with this Agreement.

4.3 Close of Escrow.

(a) The Closing shall occur within thirty (30) days after the Developer has met all of its pre-disposition conditions as set forth in Article 2 above, and the Agency has met all of its predisposition requirements as set forth in Article 3 above, but in no event shall the Closing occur later than December 18, 2004.

(b) The Purchase Price for the Property shall be Five Million Four Hundred Thousand Dollars ($5,400,000). The Deposit shall be credited against the Purchase Price. The Developer acknowledges that the Agency has retained consultants and others to assist in the determination of compliance with the requirements of Health and Safety Code Section 33433 and that appropriate findings in compliance with said provisions are required for the approval of this Agreement. Developer shall pay the purchase price by deposit into escrow of cash or other readily available funds.

(c) Upon Closing, the Agency shall convey the Property to Developer by grant deed ("Grant Deed") in substantially the form set forth in the attached Exhibit D.

(d) Upon Closing, the Agency, if necessary will convey the Craneway to the City and the City and the Developer shall enter into the lease of the Craneway described in Section 3.7.

4.4 Condition of Title. At Closing, the Property shall be free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession, except the Permitted Exceptions. At Closing, the leasehold interest in the Craneway shall be free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession, except the SLC restrictions, BCDC and other regulatory agency restrictions if any, and easements for public rights of access to the shoreline and San Francisco Bay Trail.

4.5 Physical Condition of Property and Craneway.

(a) Disclosure. In fulfillment of Health and Safety Code Section 25359.7(a), the Agency hereby represents, warrants, and covenants, that except as disclosed in the Site Investigation Reports as described in Section 2.6, above, which reports Developer hereby acknowledges receiving, the Agency has no knowledge and has no specific reasonable cause to believe that any Hazardous Materials have come to be located on or beneath the Property and/or Craneway or that any release of Hazardous Materials has come to be located on or beneath the Property and/or Craneway, any property adjacent to the Property and/or Craneway which might migrate on, to or under the Property and/or Craneway.

(b) Due Diligence. The Developer acknowledges that it has had the opportunity granted by the Agency to adequately investigate the Property and Craneway pursuant to Section 2.6, to review the Site Investigation Reports, and, prior to the date of this Agreement to review the environmental assessment documents described in Section 2.6.

(c) "As Is" Conveyance. The Property and Craneway shall be conveyed in "as is" condition. The Developer hereby indemnifies and releases the Agency and the City from any and all claims, liabilities, damages, and judgments which may result from the presence, removal, and storage of any hazardous substances on the Property and Craneway (including those identified in the Site Investigation Reports and accepted by the Developer pursuant to Section 2.6) after the Closing. The Agency shall have no responsibility for determining the suitability of the Property and Craneway for the Project, and if the conditions of the Property and Craneway are not entirely suitable for the development of the Project, the Developer shall put the Property and Craneway in a suitable condition for construction of the Project. The Developer waives any right of reimbursement or indemnification from the Agency for Developer's costs or liabilities related to any physical conditions on the Property and Craneway, including without limitation those which may arise from the presence, removal, and storage of any Hazardous Materials on the Property and Craneway (including those identified in the Site Investigation Reports) after the Closing. This waiver shall survive termination of this Agreement. Agency hereby assigns to Developer any rights Agency may possess, if any, as against those consultants and independent contractors which performed the Site Investigation Reports.

(d) Developer May Independently Investigate. Agency has granted a right of entry to allow Developer to independently investigate the condition of the Property.

(e) Agency's Disclosures. These disclosures are made based on the best of Agency's knowledge and without further representations as to condition, development capability,

or the appropriateness of the Property and Craneway for development or suitability for any particular use. Developer should confirm, to Developer's satisfaction, that the condition of the Property and Craneway is acceptable to Developer.

4.6 Costs of Escrow and Closing. Ad valorem taxes, if any, shall be prorated as of the date of conveyance. The lien of any bond or assessment shall be assumed by the Developer and assessments payable thereon shall be prorated as of the date of conveyance. Agency shall pay any delinquent ad valorem taxes and any amounts owning for delinquent bonds and assessments as of the date of conveyance. The Developer shall bear the costs of title insurance. The Agency shall bear the cost of title company document preparation and recordation fees. All other costs of escrow (including the Escrow Holder's fee) shall be evenly borne by the parties. The costs borne by the Developer shall be in addition to the purchase consideration set forth in Sections 4.3.

4.7 Real Estate 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. If a real estate commission is claimed due to the actions of any party hereto, then the party whose actions have given rise to the claim for the commission 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.

4.8 Prior Developer Plans. The Agency agrees to assign to Developer full right, title and interest in all plans, studies, reports, approvals and permits acquired by the Agency from Assembly Plant Partners, LLC, the previous developer of the Property ("APP"), promptly upon receipt of the same by the Agency from APP.

ARTICLE 5. SECTION 108 LOAN AND BEDI GRANT

5.1 HUD Section 108 Loan and BEDI Grant Documents. All provisions in this Article 5 regarding the Section 108 Loan and the BEDI Grant from the Agency to the Developer shall be subject to the provisions set forth in the HUD Loan Documents to be entered into between HUD and the Agency subsequent to execution of this Agreement. The parties agree to amend the terms of this Article 5 as necessary to the extent the HUD Loan Documents require different provisions, and agree to enter into a separate loan agreement evidencing the terms of this Article 5 if required by HUD.

5.2 Section 108 Loan.

(a) The Agency shall loan to the Developer the Section 108 Loan in the principal amount of Three Million Dollars ($3,000,000) for the purposes set forth in Section 5.5 of this Agreement. The obligation of Developer to repay the Section 108 Loan shall be evidenced by the Section 108 Note in the form provided by the Agency.

(b) The amount of the Developer's construction financing, when combined with the Section 108 Loan amount shall not exceed eighty percent (80%) of the appraised value of the Property.

5.3 Section 108 Loan Definitions. The following definitions shall apply specifically to this Article 5:

(a) "Date of Disbursement" means the date on which the Agency makes the initial disbursement of Section 108 Loan proceeds to the Developer in accordance with the Section 108 Note.

(b) "Interest Conversion Date" means the date the interest rate converts from a floating rate to a fixed rate.

(c) "Interest Reserve" means the amount of funds which will be withheld from the BEDI Grant to pay anticipated interest payments accrued on the aggregate disbursements made under the Section 108 Note during the Interest Reserve Period.

(d) "Interest Reserve Period" means that period from the Date of Disbursement to the Payment Conversion Date.

(e) "Loan Fees" means the fees to be paid to the Agency pursuant to Section 5.10.

(f) "Maturity Date" means the twentieth (20th) anniversary of the Date of Disbursement.

(g) "Payment Conversion Date" means the first (1st) day of the thirty-sixth (36th) month following the Date of Disbursement.

5.4 Interest.

(a) Subject to the provisions of Section 5.4(b) below, the initial interest to be charged on the unpaid principal balance of the Section 108 Loan shall be at a rate equal to the three (3) month London Interbank Offered Rate (LIBOR) plus 50 basis points or such amount as is charged by HUD under the HUD Loan Documents, commencing on the Date of Disbursement. The parties acknowledge that HUD requires the interest rate to convert from a floating to a fixed rate and that HUD currently requires such interest rate change to occur only once a year. The Agency agrees that so long as the Developer is not in default under this Agreement that the Developer may determine the Interest Conversion Date; provided, however, the Interest Conversion Date shall not be later than the date required by HUD pursuant to the HUD Loan Documents.

(b) In the event of an Event of Default described in Section 11.4, interest on the Section 108 Loan shall begin to accrue, as of the date of such default and continuing until

such time as the Section 108 Loan funds are repaid in full or the default is cured, at the default rate of the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

5.5 Use of Section 108 Loan Funds.

(a) The Developer shall use the Section 108 Loan to fund construction of the Project consistent with the approved Financing Plan.

(b) The Developer shall not use the Section 108 Loan funds for any other purpose without the prior written consent of the Agency.

5.6 Section 108 Loan Deed of Trust. The Developer shall provide the Agency the Section 108 Loan Deed of Trust securing Developer's obligation to repay the Section 108 Loan, in a form to be provided by the Agency. The Agency's security interests under the Section 108 Loan Deed of Trust shall at all times be and remain subject and subordinate to Approved Security Interests for financing the acquisition and/or construction of the Project and any modifications, renewals, increases and refinancings thereof (the "Senior Liens"), and the Agency shall execute such subordination agreements and other documents containing such provisions usual and customary in transactions of this type in order to subordinate the Section 108 Loan Deed of Trust security interests held by the Agency to the Senior Liens and the indebtedness secured thereby. The Agency shall be obligated to subordinate the Section 108 Loan Deed of Trust only if the aggregate amount of indebtedness secured by the Senior Liens together with that secured by the Agency Deed of Trust and Section 108 Loan Deed of Trust does not exceed eighty percent (80%) of the appraised value of the Property.

5.7 Conditions Precedent to Disbursement of Section 108 Loan.

The maximum amount of funds to be disbursed pursuant to this Section 5.7 shall not exceed Three Million Dollars ($3,000,000). The Agency shall not be obligated to make any disbursements of Section 108 Loan proceeds for construction of the Project, unless the following conditions precedent are satisfied prior to each such disbursement of the Section 108 Loan:

(a) There exists no Default nor any act, failure, omission or condition that would constitute an event of Default under this Agreement;

(b) HUD has provided the Agency a Contract for Loan Guarantee Assistance and entered into the HUD Loan Documents with the Agency, and has provide the Agency the Section 108 Loan funds;

(c) The Agency has conveyed the Property to the Developer and the Developer has entered into a lease with the City for the Craneway and all conditions set forth in Article 2 of this Agreement have been satisfied;

(d) The Developer has executed the Section 108 Loan Note and Section 108 Loan Deed of Trust and delivered them to the Agency;

(e) A title insurer reasonably acceptable to the Agency is unconditionally and irrevocably committed to issuing an ALTA Lender's Policy of insurance insuring the priority of the Section 108 Loan Deed of Trust in the amount of the Section 108 Loan, subject only to such exceptions and exclusions as may be reasonably acceptable to the Agency, and containing such endorsements as the Agency may reasonably require;

(f) The Section 108 Deed of Trust has been recorded against the Property in the Office of the Recorder of the County of Contra Costa;

(g) Developer has furnished the Agency with evidence of the insurance coverage meeting the requirements of Section 12.9 below;

(h) The undisbursed proceeds of the Section 108 Loan, together with other funds or firm commitments for funds that the Developer has obtained in connection with the Project, are not less than the amount that the Agency determines is necessary to pay for development of the Project and to satisfy all of the covenants contained in this Agreement;

(i) The Agency has received a written draw request from the Developer, including certification that the condition set forth in Section 5.7(a) continues to be satisfied, and setting forth the proposed uses of funds consistent with the Financing Plan, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay any contractor in connection with improvements on the Property, upon request of the Agency, the written request for funds must be accompanied by certification by the Developer's architect reasonably acceptable to the Agency that the work for which disbursement is requested has been completed (although the Agency reserves the right to inspect the Property and make an independent evaluation).

5.8 Interest Reserve. As a condition of disbursement of the Section 108 Loan, Developer agrees that the Agency shall withhold a portion of BEDI Grant sufficient to pay the anticipated interest that will accrue though the Payment Conversion Date (assuming the interest rate that is applicable on the Date of Disbursement) on the aggregate Section 108 Loan disbursements (the "Interest Reserve"). Should the sum of (i) the balance of the funds withheld to pay the Interest Reserve be insufficient to repay the interest then outstanding, or should the Agency reasonably believe that those funds will be insufficient to repay the projected interest due on or before the Payment Conversion Date, the Agency shall provide written notification of such actual or projected shortfall. Developer shall, within fifteen (15) calendar days of receipt of Agency's notification, deposit with the Agency sufficient funds to pay all current and projected interest due on or before the Payment Conversion Date. Any funds remaining in the Interest Reserve at the Payment Conversion Date may be applied by the Developer to eligible loan costs as set forth in the approved Financing Plan. Notwithstanding the above, the Agency agrees that if the Developer's construction lender funds an interest reserve that includes the Section 108 Loan Interest Reserve amount (the "Construction Loan Reserve") and the construction lender allows payment of the Section 108 Loan from the Construction Loan

Reserve pursuant to Section 5.9(a) below, that the City shall not require creation of the Interest Reserve.

5.9 Repayment of Section 108 Loan. The Section 108 Loan shall be repaid as follows:

(a) Payments through Payment Conversion Date. For the thirty six (36) month period, beginning on the Date of Disbursement, Developer shall make and authorizes the Agency to disburse quarterly payments of accrued interest on the principal using the proceeds in the Interest Reserve account, or shall make disbursements from the Construction Loan Reserve, as applicable.

(b) Payments After Payment Conversion Date Through Maturity Date. Following the Payment Conversion Date, the Developer shall make semi-annual payments to the Agency. The first such semi-annual payment shall be an interest only payment. The second semi-annual payment shall be a principal and interest payment. The payments shall be structured to fully amortize the Section 108 Loan over the period from the Conversion Date through the Maturity Date. The payment dates shall be determined such that they occur at least thirty (30) days prior to the date the Agency is require to make payments to HUD under the HUD Loan Documents.

(c) Payment in Full. All principal and interest, if any, on the Section 108 Loan shall, at the option of the Agency, be due and payable upon the earliest of: (i) Transfer of the Project other than a Transfer permitted or approved by the Agency as provided in Article 9; (ii) the occurrence of an Event of Default for which the Agency exercises its right to cause the Section 108 Loan indebtedness to become immediately due and payable; or (iii) the Maturity Date.

(d) Prepayment. The Developer shall have the right to prepay the Section 108 Loan at any time without penalty.

5.10 Payment of Loan Fees. As a condition of disbursement of the Section 108 Loan, Developer agrees that the Agency shall disburse approximately Twenty Three Thousand Nine Hundred Dollars ($23,900) from BEDI Grant funds, or such other amount as set forth in the HUD Loan Documents, to pay Loan Fees.

5.11 BEDI Grant. The Agency shall provide the Developer the BEDI Grant in the principal amount of One Million Five Hundred Thousand Dollars ($1,500,000) for the purposes set forth in Section 5.12 of this Agreement.

5.12 Use of BEDI Grant Funds.

(a) The Developer shall use the BEDI Grant to fund construction of the Project consistent with the approved Financing Plan.

(b) The Developer shall not use the BEDI Grant funds for any other purpose without the prior written consent of the Agency.

5.13 Conditions Precedent to Disbursement of BEDI Grant.

The maximum amount of funds to be disbursed pursuant to this Section 5.13 shall not exceed One Million Five Hundred Thousand Dollars ($1,500,000). The Agency shall not be obligated to make any disbursements of BEDI Grant proceeds for construction of the Project, unless the following conditions precedent are satisfied prior to each such disbursement of the BEDI Grant:

(a) There exists no Default nor any act, failure, omission or condition that would constitute an event of Default under this Agreement;

(b) HUD has provided the Agency a Contract for Loan Guarantee Assistance and entered into the HUD Loan Documents with the Agency, and has provide the Agency the BEDI Grant funds;

(c) The Agency has conveyed the Property to the Developer and the Developer has entered into a lease with the City for the Craneway and all conditions set forth in Article 2 of this Agreement have been satisfied;

(d) Developer has furnished the Agency with evidence of the insurance coverage meeting the requirements of Section 12.9 below;

(e) The Agency has received a written draw request from the Developer, including certification that the condition set forth in Section 5.13(a) continues to be satisfied, and setting forth the proposed uses of funds consistent with the Financing Plan, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay any contractor in connection with improvements on the Property, upon request of the Agency, the written request for funds must be accompanied by certification by the Developer's architect reasonably acceptable to the Agency that the work for which disbursement is requested has been completed (although the Agency reserves the right to inspect the Property and make an independent evaluation).

5.14 Applicable Federal Requirements. The Developer shall comply will all applicable federal requirements governing the use of the Section 108 Loan funds and the BEDI Grant as set forth in 24 CFR 570 et seq. including the applicable requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the handicapped in any federally assisted program, and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.).

ARTICLE 6. CONSTRUCTION OF THE PROJECT

6.1 Construction Pursuant to Plans. Unless modified by operation of Section 6.2, all works of construction and development on the Property and Craneway shall be done in accordance with the approved Final Construction Plans.

6.2 Material Change in Final Construction Plans. If the Developer desires to make any material change in any Final Construction Plans, the Developer shall submit the proposed change to the Agency for its approval. For purposes of this Section 6.2, a "material change" means a change of the Project shown in the approved Design Development Documents. Unless such proposed change is rejected by the Agency within thirty (30) days after receipt, it shall be deemed approved. If rejected within such time period, the previously approved Final Construction Plans shall continue to remain in full force and effect. Changes to tenant improvements on the interior shall not be considered as a material change requiring additional approval providing the changes affect only the interior of the structure.

6.3 Commencement of Construction. Notwithstanding any other provision of this Agreement, the Developer shall not commence construction of the Project, including any site preparation other than environmental assessment and performance of the Refit Work under the PMA, until the Closing has occurred. Commencement of construction for the purposes of this Section 6.3 means issuance of a notice to proceed to the general contractor(s), which notice requires construction activity to commence on the Property and Craneway within five (5) or fewer days after the date of the notice. Any breach of this Section shall afford the Agency its rights under Article 11 below. The Developer for itself, its successors and assigns, covenants and agrees to commence construction of the Project within thirty (30) days following the Closing unless the commencement date is extended in writing by the Agency in its sole discretion upon request of the Developer providing the Developer is diligently pursuing commencement of construction.

6.4 Completion of the Project. The Developer, for itself, its successors and assigns, hereby covenants and agrees to use diligent good faith efforts to prosecute to completion the construction of the Project within eighteen (18) months following the actual date of commencement of construction, and in any event within three (3) years after such commencement, subject to the provisions of Section 12.4 below.

6.5 Progress Reports. Until construction of the entire Project has been completed, the Developer shall provide quarterly written reports regarding construction progress in such detail as the Agency may reasonably require.

6.6 Off-Site Improvements. The Developer shall design, construct and fund the construction of the improvements to Hall Avenue and Harbour Way South required by the Land Use Approvals (the Off-Site Improvements"). The Off-Site Improvements shall be completed no later than the date required for completion of construction of the Project.

6.7 Entry by the Agency. The Developer shall permit the Agency, through its officers, agents, or employees, to enter the Property and Craneway at all reasonable times to inspect the work of construction to determine that such work is in conformity with the approved Final

Construction Plans or to inspect the Property and Craneway for compliance with this Agreement. Agency shall comply with all security and safety requirements and precautions of Developer and its contractors during any such Agency inspections of the Property and Craneway. The Agency is under no obligation to (a) supervise construction; (b) inspect the Property and Craneway; or (c) inform the Developer of information obtained by the Agency during any inspection, except that the Agency shall inform the Developer of any information it obtains or discovers during inspection that could reasonably foreseeably affect rights or obligations of a party under this Agreement. The Developer shall not rely upon the Agency for any supervision or inspection. The rights granted to the Agency pursuant to this Section are in addition to any rights of entry and inspection the City may have in exercising its municipal regulatory authority.

6.8 Equal Opportunity. During the construction of the Project there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, ancestry or national origin in the hiring, firing, promoting or demoting of any person engaged in the construction work. The Developer and its construction contractors, employees and agents shall comply with all applicable federal laws and state laws, including all equal opportunity and fair employment laws and regulations applicable to the Property and Craneway and the Project in the event the Agency finances certain aspects of the Project. Moreover, the Developer, by and through its construction contractor(s), shall give preference, to the extent practicable, for employment to those individuals residing within the geographical area governed by the Redevelopment Plan, as provided by relevant State law.

6.9 Prevailing Wages. If and to the extent applicable to the Project, the Developer shall and shall cause the contractor and subcontractors to pay prevailing wages in the construction of the Project as those wages are determined pursuant to the federal Davis-Bacon Act and implementing rules and regulations, and Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations, and comply with the other applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations, and City of Richmond employment requirements including but not limited to the City's Living Wage Ordinance (Richmond Municipal Code Chapter 2.60), the City's Business Opportunity Ordinance (Richmond Municipal Code Chapter 2.50), and the City's Local Employment Program Ordinance (Richmond Municipal Code Chapter 2.56). The Developer shall and shall cause the contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to Labor Code Sections 1720 et seq. and the Davis-Bacon Act and implementing rules and regulations. Copies of the currently applicable current per diem prevailing wages are available from the City of Richmond Public Works Department, Richmond, California. During the construction of the Project, Developer shall or shall cause the contractor to post at the Property and Craneway the applicable prevailing rates of per diem wages. Developer shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the Agency) the Agency and the City against any claim for claims, losses, liabilities, damages (direct or consequential), compensation, fines, penalties, causes of action, administrative and judicial proceedings and orders, judgments, remedial action or requirements, enforcement actions of any kind, and all costs and expenses incurred therewith (including but not limited to attorneys' fees and costs) or other amounts arising out of the failure or alleged failure of any person or entity (including Developer, its contractor and subcontractors) to pay prevailing wages as

determined pursuant to Labor Code Section 1720 et seq. and implementing regulation or comply with the other applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations in connection with construction of the Project or any other work undertaken or in connection with the Property and Craneway.

6.10 Compliance with Applicable Law. The Developer shall cause all work performed in connection with construction of the Project to be performed in compliance with (a) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, including but not limited to historic preservation requirements of SHPO, (b) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction, and (c) the continuing requirements of FEMA and/or HUD applicable to the use of the HUD Funds and the funding of the Refit Work. The work shall proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and the Developer shall be responsible to the Agency for the procurement and maintenance thereof, as may be required of the Developer and all entities engaged in work on the Property and Craneway.

6.11 Certificates of Completion.

(a) Promptly after completion of the Project, in accordance with those provisions of this Agreement relating solely to the obligations of the Developer to construct the Project (including the dates for beginning and completing construction of the Project), the Agency will provide an instrument so certifying ("Certificate of Completion"). This certification shall constitute a conclusive determination that the covenants in this Agreement with respect to the obligations of the Developer, its successors and assigns, to construct the Project (including the dates for the beginning and completing construction of the Project) have been met.

(b) The certification shall be in such form as will enable it to be recorded among the official records of Contra Costa County. This certification and determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a deed of trust securing money loaned to finance the Project or any part thereof and shall not be deemed a notice of completion under the California Civil Code.

(c) If requested by Developer, a separate Certificate of Completion for the residential live-work portion of the Project shall be issued separately from the balance of the Project.

6.12 First Source Agreement. The Developer and its contractors shall enter into, and Developer shall require each of its commercial tenants, vendors and agents to enter into, a First Source Agreement in the form attached as Exhibit J with RichmondWorks, an employment and training program of the City of Richmond.

ARTICLE 7. ON-GOING REQUIREMENTS

7.1 Applicability. The Developer agrees that upon the completion of the Project, the conditions set forth in this Article 7 shall apply and shall continue to apply after completion of the Project. These conditions shall be set forth in the Grant Deed.

7.2 Use and Maintenance.

(a) The Developer agrees to use the Property and Craneway for the purposes set forth in this Agreement and the Land Use Approvals and to maintain all portions of the Property and Craneway in good repair and in a neat, clean and orderly condition.

(b) No use shall be permitted in the Project which is inconsistent with the operation of a high quality housing complex.

7.3 Mandatory Language in All Subsequent Deeds, Leases and Contracts. All deeds, leases or contracts entered into by Developer as to any portion of the Property and Craneway shall contain the following language:

(a) In Deeds: "Grantee herein covenants by and for itself, its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed nor shall the grantee or any person claiming under or through the grantee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed.

The foregoing covenant shall run with the land."

(b) In Leases: "The lessee herein covenants by and for the lessee and lessee's heirs, personal representatives and assigns and all persons claiming under the lessee or through the lessee that this lease is made subject to the condition that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, religion, creed, sex, sexual orientation, marital status, ancestry or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the land herein leased nor shall the lessee or any person claiming under or through the lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the land herein leased."

(c) In Contracts: "There shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, creed, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or

segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the land."

7.4 Hazardous Materials

(a) Covenants.

(1) No Hazardous Materials Activities. Developer hereby represents and warrants to the Agency that, at all times from and after the Closing, Developer shall not cause or permit the Property and Craneway or any improvements thereon to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any Hazardous Materials except as may be incidental to the ordinary business and residential activities of occupants of the Project and is in compliance with all applicable Hazardous Materials Laws.

(2) Hazardous Materials Laws. Developer hereby represents and warrants to the Agency that, at all times from and after the Closing until Developer sells or otherwise disposes of the Project, Developer shall comply and cause the Property and Craneway and any improvements thereon to comply with all Hazardous Materials Laws, including without limitation, those relating to soil and groundwater conditions.

(3) Notices. Developer hereby represents and warrants to the Agency that, at all times from and after the Closing, Developer shall immediately notify the Agency in writing of the following matters (except to the extent included in the Site Investigation Reports): (i) the discovery of any Hazardous Materials on or under the Property and Craneway; (ii) any knowledge by Developer that the Property and Craneway does not comply with any Hazardous Materials Laws; (iii) any claims or actions pending or threatened against the Developer, the Property and Craneway or any improvements thereon by any governmental entity or agency or any other person or entity relating to Hazardous Materials or pursuant to any Hazardous Materials Laws (collectively "Hazardous Materials Claims"); and (iv) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property and Craneway that could cause the Property and Craneway or any part thereof to be designated as "border zone property" under the provisions of California Health and Safety Code sections 25220, et seq., or any regulation adopted in accordance therewith.

(4) Remedial Action. In response to the presence of any Hazardous Materials on, under or about the Property and Craneway, Developer shall immediately take, at Developer's sole expense, all remedial action required by any Hazardous Materials Laws or any judgment, consent decree, settlement or compromise with respect to any Hazardous Materials Claims.

(b) Inspection by Agency. Upon reasonable prior written notice to Developer, Agency, its employees and agents, may from time to time enter and inspect the Property and Craneway for the purpose of determining the existence, location, nature and magnitude of any past or present release or threatened release of any Hazardous Materials into, onto, beneath or from the Property and Craneway.

(c) Legal Effect of Section. Developer and Agency agree that:

(1) This section 7.4 is intended as Agency's written request for information (and Developer's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5; and

(2) Each representation and warranty in this section (together with any indemnity applicable to a breach of any such representation and warrant) with respect to the environmental condition of the Property is intended by Agency and Developer to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(d) Environmental Indemnity. Without limiting the generality of the indemnity set forth elsewhere in this Agreement, Developer shall defend, indemnify, and hold the Agency, the City and their respective board members, council members, directors, officers, employees, agents, successors, and assigns free and harmless against any claims, loss, damage, costs, expense or liability they may incur directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, or disposal by the Developer or its contractors, subcontractors, tenants, agents, and employees, of Hazardous Materials on, under, or about the Property and Craneway or the Project, including without limitation: (a) all foreseeable consequential damages; (2) the costs of any required or necessary repair, cleanup or detoxification of the Property and Craneway or the Project, and the preparation and implementation of any closure, remedial or other required plans; and (3) all reasonable costs and expenses incurred by the Agency in connection with clauses (1) and (2), including but not limited to reasonable attorney's fees. This obligation to indemnify and defend shall survive termination of this Agreement.

7.5 Taxes and Assessments. The Developer shall pay when due, all real property taxes, possessory interest taxes, and assessments assessed and levied on the Property and Craneway and the Project, and shall remove any levy or attachment made on the Property and Craneway or the Project other than the Permitted Exceptions.

7.6 Changes. The Developer shall promptly notify the Agency in writing of any changes in the location of the principal place of business or material assets of the Developer, and of any other change in fact or circumstances represented or warranted at any time by the Developer to the Agency.

7.7 Mitigation Measures. During construction and operation of the Project, the Developer shall perform and observe the mitigation measures applicable to the Property and Craneway and the Project, if any, as set forth in the Land Use Approvals.

7.8 Sales and Use Tax Allocations.

(a) The Developer shall require that its contractors and subcontractors exercise their option to obtain a Board of Equalization sub-permit for the job site and allocate all eligible use tax payments to the City. Prior to beginning the construction of the Project, the Developer

shall require that its contractor and subcontractors provide the City with either a copy of the sub-permit or a statement that use tax does not apply to their portion of the job.

(b) The Developer shall review the direct payment process established under California Revenue and Taxation Code 7051.3 and, if eligible, use the permit so that the local share of its use tax payments is allocated to the City. The Developer shall provide the City with either a copy of the direct payment permit or a statement certifying ineligibility to qualify for the permit. The Developer shall further work with the Agency to inform all tenants and operators of facilities in the Project about the direct payment permit process and require their participation if qualified.

7.9 SLC Approved Uses for Craneway. The Developer shall operate the Craneway in accordance with SLC use restrictions and the San Francisco Bay Trail and public access easements recorded against the Property.

7.10 Visitor Center Lease. As stipulated in the federal legislation creating the Rosie the Riveter National Historical Park, a Visitor's Center to support the park will be located in the Building upon its rehabilitation and redevelopment. The Developer shall promptly enter into a lease with the NPS under which the NPS shall operate an approximately 10,000 square foot visitor's center in the Building for the Rosie the Riveter World War II/Home Front National Historical Park. The lease shall provide shell space rent free (excluding normal NNN expenses and tenant improvements) for a minimum of 10,000 square feet of space, a significant portion of which must be located in the Craneway or immediately adjacent to the Craneway subject to approval of the NPS. The lease shall also be subject to the approval of the Agency, which approval shall not be unreasonably withheld. The lease shall include the First Source hiring provisions set forth in Section 6.12 above, if legally permissible to do so under applicable federal statutes.

7.11 Leases. The Developer shall use its commercially reasonable diligent good faith efforts to enter into leases for the Project promptly following the commencement of construction of the Project. All such leases shall be on commercially reasonable terms, provisions, and conditions and shall include City of Richmond employment requirements including but not limited to the City's Living Wage Ordinance (Richmond Municipal Code Chapter 2.60), the City's Business Opportunity Ordinance (Richmond Municipal Code Chapter 2.50), and the City's Local Employment Program Ordinance (Richmond Municipal Code Chapter 2.56). The leases shall be subject to Agency review and approval which shall not be unreasonably withheld, and which shall be limited to review for compliance with the applicable City codes and First Source requirements. The Developer shall provide the Agency's Community and Economic Development Director or his designee with copies of all such fully executed leases or letters of intent to lease within thirty (30) days after execution of such lease or letter of intent. These documents shall be completely legible and shall not have any terms marked out. The Agency agrees to keep such documents as confidential documents that are not disclosed to anyone other than the Community and Economic Development Director or his designee, not as public records to the extent possible, and agrees to return all such documents to the Developer without reproduction within thirty (30) days after receipt of such documents. No

such lease or letter of intent to lease may contain any term which is inconsistent with the provisions of this Agreement.

7.12 Entry by FEMA. The Developer shall permit FEMA, through its officers, agents, or employees, to enter the Property and Craneway at all reasonable times to inspect the Refit Work for compliance with applicable FEMA requirements.

7.13 North Parking Area Planning Process. The Developer agrees to develop the North Parking Area for parking and attendant uses. The Developer acknowledges that any future development of the North Parking Area for non-parking uses is subject to community and City planning discussion for its future development.

7.14 Cooperation on Ferry Service. The Developer shall cooperate with the Agency and City in any efforts to petition the appropriate government agencies for the return of public ferry service to the Richmond ferry terminal adjacent to the Site.

ARTICLE 8. AGENCY PARTICIPATION

8.1 Agency Participation. The Agency shall be entitled to participate in the benefits of the Project in accordance with this Article 8. The following special definitions shall apply to this Article 8:

(a) "Adjusted Gross Revenues" for any period shall mean all fixed rent, base rent, percentage rent, concession fees, forfeited deposits, or other rental income from tenants and occupants of the Building or from rental interruption insurance, but excluding any receipts representing reimbursements of operating expenses and ownership costs such as taxes, insurance, utilities, maintenance, repairs, management fees or any other item of cost or expense paid directly by a tenant or passed through to and reimbursed by a tenant; minus the applicable TI Amortization for such period.

(b) "Cap Rate" shall mean the ten (10) year treasury rate on ten year (10) notes issued by the U.S. Treasury most recently prior to the date of calculation of the Sales Proceeds Assumed Reduction, plus one hundred fifty (150) basis points, not to exceed eight percent (8%).

(c) "Net Proceeds of Sale" shall mean the sales proceeds received by Developer on the sale of a condominium unit in the Project less closing costs and reasonable expenses.

(d) "Sales Proceeds Assumed Reduction" shall mean the rent being charged for any condominium unit being sold as of the date of closing of such sale (or, if such unit is not then being rented, the average annual rent charged by Developer for units in the Project similar to the unit being sold) divided by the Cap Rate.

(e) "TI Amortization" shall mean, for any period, the amount of amortization of Developer's TI Investment accruing during such period, assuming amortization of all TI Investments in monthly installments over a five (5) year period from the date of investment (or, if later, the date of completion of the Project) at an interest rate equal to the Cap Rate.

(f) "TI Investment" shall mean all hard and soft costs expended by Developer in connection with the improvement of the Building for leasing to tenants. In the initial development of the Project, a sum equal to $20.00 per square foot shall be deemed to be Developer's investment in the base Building improvements (as opposed to tenant improvements), and all expenditures above that amount shall be deemed to be TI Investment. Thereafter, Developer's TI Investment each year shall consist only of tenant improvements constructed by Developer pursuant to a specific lease or work letter with a tenant or prospective tenant. Developer shall provide to the Agency detailed documentation of amounts expended for TI Investment promptly after completion of the respective tenant improvements.

8.2 Payment of Project Cash Flow Participation to the Agency.

(a) From Project Adjusted Gross Revenue. The Developer shall pay to the Agency on or before March 31 of each year an amount calculated with respect to the preceding calendar year equal to ten percent (10%) of the excess, if any, of (a) Adjusted Gross Revenues for such year, over (b) the product of Twenty Four Dollars ($24.00) (the "Rent Threshold") multiplied by the average number of square feet of the Building occupied by tenants during such year. The Rent Threshold shall be adjusted upward (but not downward) as of January 1, 2009 and every fifth year hereafter, in proportion to the increase in the Consumer Price Index – All Urban Consumers (1982-1984 = 100) for the San Francisco-Oakland-San Jose Metropolitan Area as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(b) From the Proceeds of Sale of Condominiums. On or before March 31 of each year, the Agency shall receive ten percent (10%) of the excess, if any, of the Net Proceeds of Sale of a condominium unit in the Project that was sold during the preceding calendar year, less the Sales Proceeds Assumed Reduction. Upon any such sale, the square footage of the unit sold shall no longer be deemed occupied by tenants for purposes of subsection 8.2(a) above.

8.3 Books and Records. Developer shall keep and maintain at Developer's offices, full, complete and appropriate books, records and accounts relating to the Project, including all such books, records and accounts relating to the Project, including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail Developer's calculation of Adjusted Gross Revenues, Net Proceeds of Sale, and the participation payments. Books, records and accounts relating to the Project shall be kept and maintained consistent with customary and reasonable commercial practice, and shall be consistent with the requirements of this Agreement. Any such books, records and accounts as are relevant and material to the calculations required under Section 8.2 above shall be open to and available for inspection by

Agency, its auditors or other authorized representatives at reasonable intervals during normal business hours upon 48 hours notice. Copies of all sales, excise tax reports and other reports that Developer may be required to furnish any governmental agency (excluding internal revenue tax returns and state franchise tax returns) shall be open for inspection by Agency at the place that the books, records and accounts of Developer are at the place that the books, records and accounts of Developer are kept during normal business hours upon 48 hours notice. Developer shall preserve records on which any statement of Adjusted Gross Revenues and/or Net Proceeds of Sale is based for a period of not less than five (5) years after such statement is rendered, and for any period during which there is an audit undertaken pursuant to subsection (e) then pending.

8.4 Agency Audits. The payment by Developer or acceptance by Agency of any participation payment as called for in Section 8.2 shall not bind Agency as to the correctness of such statement or such payment. Within five (5) years after the receipt of any such statement, Agency or any designated agent or employee of Agency shall be entitled to audit all books, records and accounts pertaining to the Adjusted Gross Revenues, Net Proceeds of Sale and participation payments. Such audit shall be conducted during normal business hours upon forty-eight (48) hours notice at the principal place of business of Developer and other places where records are kept. Any audit undertaken under this Section 8.4 shall be completed within sixty (60) days of the commencement thereof, subject to extensions of time for any periods of delay by any Third Party due to no fault of Agency or its auditors, and in no event later than five (5) years after Agency's receipt of the statement or statements being audited. Agency shall not be entitled to more than one audit for any particular calendar year, unless it shall appear from a subsequent audit that fraud or concealment may have occurred with respect to a previously audited year. If it shall be determined as a result of such audit that there has been a deficiency, it shall become immediately due and payable with interest at the then applicable Local Agency Investment Fund interest rate, determined as of and accruing from the date that said payment should have been made. In addition, if Developer's statement for any calendar year shall be found to have understated Adjusted Gross Revenues or Net Proceeds of Sale by more than five percent (5%) and Agency is entitled to any additional participation payments as a result of said understatement, then Developer shall pay, in addition to the interest charges referenced hereinabove, all of Agency's reasonable costs and expenses connected with any audit or review of Developer's accounts and records. All such payments shall be paid within ten (10) days of receipt of written notice to Developer of such underpayment.

8.5 Agency Note and Agency Deed of Trust. The payments due under Section 8.2 will be evidenced by the Agency Note and secured by the Agency Deed of Trust against the Property and Project or such other security as is reasonably acceptable to the Agency. The Agency's security interests under the Agency Deed of Trust shall at all times be and remain subject and subordinate to Approved Security Interests for financing the acquisition and/or construction of the Project and any modifications, renewals, increases and refinancings thereof (the "Senior Liens"), and the Agency shall execute such subordination agreements and other documents containing such provisions usual and customary in transactions of this type in order to subordinate the Agency Deed of Trust security interests held by the Agency to the Senior Liens and the indebtedness secured thereby. The Agency shall be obligated to subordinate the Agency Deed of Trust only if the aggregate amount of indebtedness secured by the Senior Liens

together with that secured by the Agency Deed of Trust and Section 108 Loan Deed of Trust does not exceed eighty percent (80%) of the appraised value of the Property.

8.6 Approval of Financing. The Developer shall not place any encumbrances on the Development other than Approved Security Interests, without prior written consent of the Agency.

ARTICLE 9. CHANGES IN DEVELOPER

9.1 Changes Only Pursuant to this Agreement. The qualifications, experience and expertise of the Developer is of particular concern to the Agency. It is because of the qualifications, experience and expertise of this entity that the Agency has entered into this Agreement. No voluntary or involuntary successor in interest to the Developer shall acquire any rights or powers under this Agreement, except as provided in this Article 9.

9.2 Prohibition Against Transfer of Property and Craneway and Assignment of Agreement

(a) Developer shall not, except as permitted by this Agreement, make or attempt any total or partial sale, transfer, conveyance, assignment or lease, of all or part of the Property and Craneway, the buildings or structures on the Property and Craneway or the rights and obligations under this Agreement without the prior written approval of the Agency until the date when all the following have occurred: (1) the Agency has recorded a Certificate of Completion for the Project pursuant to Section 6.11 of this Agreement; and (2) the proposed transferee has affirmatively agreed in writing to be bound by the provisions of Article 7 of this Agreement.

(b) The Agency will approve such a transfer of the Property and Craneway or an assignment of this Agreement prior to the occurrence of the events listed in (a) above only if the following conditions are met and upon the Agency's exercise of its reasonable discretion:

(1) The proposed transferee demonstrates to the Agency that, in the Agency's reasonable judgment, the proposed transferee has sufficient financial strength and experience to competently complete construction of the Project and/or to competently manage the Project in a first-class manner and as required under this Agreement.

(2) Any proposed transferee, by instrument in writing approved by the Agency and in a form recordable among the land records, for itself and its successors and assigns, and for the benefit of the Agency, shall expressly assume all the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject with respect to the portion of the Property and Craneway so transferred. The transferee shall agree to be bound by any other applicable agreements, notes, deeds of trust, covenants, regulations, and property restrictions of the Agency and the City. The Developer shall submit to the Agency for review all documents proposed to effect any such transfer, and if approved by the Agency, its approval shall be indicated to the Developer in writing.

(c) The prohibitions in subsections (a) and (b) of this Section shall not be deemed to prevent the granting of temporary easements or permits to facilitate the development of the Property or the leasing or pre-leasing of tenant space for occupancy prior to the recordation of the Certificate of Completion for the Project pursuant to Section 6.11 of this Agreement.

(d) In the absence of specific written agreement by the Agency, no transfer, assignment, sale or approval by the Agency permitted by this Article 9 shall be deemed to relieve the Developer or any other party from any obligations under this Agreement.

(e) In the event that, in violation of this Agreement, the Developer does sell, transfer, convey, lease or assign this Agreement or all or any part of the Property and Craneway or the buildings, structures or other improvements on the Property and Craneway prior to the recordation of the Certificate of Completion for the Project, the Agency shall be entitled to increase the purchase price paid by the Developer for the Property and Craneway previously conveyed from the Agency to the Developer by the amount that the consideration payable for such assignment or transfer is in excess of the sum of (a) the Purchase price paid by the Developer to the Agency for the Property and Craneway and (b) the costs of subsequent improvements and development, including carrying charges, interest and fees, transfer taxes, real estate taxes, assessments and commissions, escrow fees, and cost related to the assignment or transfer. The consideration payable for such assignment or transfer to the extent it is in excess of the amount so authorized, shall belong and be paid to the Agency by the Developer and until so paid, the Agency shall have a lien on such Property and Craneway in questions and any part involved for such amount.

(f) The provisions of this Section 9.2 have been agreed upon so as to discourage land speculation by Developer; accordingly these provisions shall be given a liberal interpretation to accomplish that end. Following recordation of the Certificate of Completion, the provisions of this Section 9.2 shall have not further force and effect.

9.3 Prohibition on Transfer of Ownership Interests. As of the effective date of this Agreement, the Developer represents and warrants to the Agency that J.R. Orton III is the majority shareholder of the Developer. Until the date when all of the following have occurred: (1) the Agency has recorded the Certificate of Completion of the Project pursuant to Section 6.11; (2) any proposed transferee of the Property and Craneway has affirmatively agreed in writing to be bound by the provisions of Article 7 of this Agreement; and (3) the Developer has paid any remaining portion of the purchase price for the Property and Craneway, or has entered into separate agreements with the Agency, acceptable to the Agency, in its sole and absolute discretion, which so provide, J.R. Orton III shall continue to be the majority shareholder of the Developer.

9.4 Permitted Transfers. Notwithstanding the foregoing provisions of this Article 9, the following transfers of this Agreement or of the Property or any interest therein or of any ownership interests in Developer shall be permitted (subject to satisfaction of the conditions of Section 9.2(b)(2)):

(a) Any transfer pursuant to an Approved Security Interest (including any refinancing or refunding thereof) provided that such Security Interest meets the requirements of Article 10.

(b) Any transfer directly resulting from the foreclosure of a Security Financing Interest or the granting of a deed in lieu of foreclosure of a Security Financing Interest provided that such Security Interest meets the requirements of Article 10.

(c) Any other transfer approved by the Agency in the Agency's sole discretion. The Agency shall grant or deny approval of a proposed transfer under this subsection (c) within thirty (30) days of receipt by the Agency of the Developer's request for approval of a transfer, which request shall include evidence of the proposed transferee's business expertise and financial capacity.

(d) Any transfer resulting directly from the death of an individual.

(e) Any transfer by an individual of its ownership interest in the Developer to a trust for the benefit of the transferor and/or the transferor's family members, as long as the transferor is the trustee of such trust.

(f) Any transfer of ownership interests in the Developer among the members or shareholders of the Developer as of the date hereof so long as the transferor retains the same amount of control over the decision making in the Developer as previous to the transfer.

(g) The admission of a new member of the Developer for the purpose of facilitating the raising of equity capital for the Development so long as the management and control of the Developer does not change.

(h) a one-time transfer by the Developer of its interest in the Property to a limited liability company or limited partnership of which the Developer is the manager or managing general partner, subject to the Agency's review and approval of the limited liability company's or limited partnership's operating agreement, which approval will not be unreasonably withheld or delayed and which shall be deemed approved if no specific and reasonable written objection is delivered to the Developer within thirty (30) days after the Developer has provided the Agency a draft of the limited liability company's or limited partnership's operating agreement. The Developer agrees after submittal of the draft of the limited liability company's or limited partnership's operating agreement to the Agency, to keep the Agency apprised of any modifications to the operating agreements and provide the Agency updated versions of the agreement during its thirty (30) day review period.

ARTICLE 10. SECURITY FINANCING AND RIGHTS OF HOLDERS

10.1 No Encumbrances Except for Development Purposes Prior to Completion.

(a) Notwithstanding any other provision of this Agreement, mortgages and deeds of trusts, or any other reasonable method of security ("Approved Security Interest"), are permitted to be placed on the Property and Craneway before a Certificate of Completion has been issued by the Agency the Project, but only for the purpose of securing loans, if any, of funds set forth in the approved Financing Plan to be used for financing the acquisition of the Property, the design and construction of the Project and any other expenditures necessary and appropriate to develop the Property and Craneway under this Agreement.

(b) Prior to the commencement of any construction of the Project, the Developer shall promptly notify the Agency of any mortgage, deed of trust, sale and lease-back or other financing, conveyance, encumbrance or lien that has been or will be created or attached to the Property and Craneway and provide the Agency with copies of the documentation for such financing. The words "mortgage" and "deed of trust" as used herein include all other appropriate modes of financing real estate acquisition, construction and land development.

10.2 Holder Not Obligated to Construct. The holder of any Approved Security Interest authorized by this Agreement or the successors or assigns of such holder is not obligated to construct or complete the Project or to guarantee such construction or completion; nor shall any covenant or any other provision in conveyance from the Agency to the Developer evidencing the realty comprising the Property and Craneway or any part thereof be construed so to obligate such holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder or its successors or assigns to devote the Property and Craneway or any portion thereof to any uses, or to construct any improvements thereon, other than those uses and improvements authorized by this Agreement.

10.3 Notice of Default and Right to Cure.

(a) Wherever the Agency pursuant to its rights set forth in Article Nine of this Agreement delivers any notice or demand to the Developer with respect to the commencement, completion, or cessation of the construction of the Project, the Agency shall at the same time deliver to each holder of record of a Approved Security Interest authorized by this Agreement a copy of such notice or demand. Each such holder shall (insofar as the rights of the Agency are concerned) have the right, but not the obligation, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default or breach affecting the Property and Craneway, the notice or demand for which has been issued by the Agency subsequent to the recordation of the deed of trust of the Approved Security Interest held by such holder and to add the cost thereof to the debt and the lien of its Approved Security Interest.

(b) Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect such improvements or construction already made) without first having expressly assumed the Developer's obligations to the Agency relating to the Project by written agreement satisfactory to the Agency. The holder in that event must agree to complete, in the manner provided in this Agreement, the Project and submit evidence satisfactory to the Agency that it has the qualifications and financial responsibility necessary to perform such obligations. Any such holder properly completing the Project shall be entitled, upon written request made to the Agency, to a Certificate of Completion from the Agency.

10.4 Failure of Holder to Complete Project. In any case where, six (6) months after default by the Developer in completion of construction of the Project under this Agreement, the holder of record of any Security Financing Interest, having first exercised its option to construct, has not proceeded diligently with construction, the Agency shall be afforded the rights against such holder it would otherwise have against the Developer under this Agreement, but only to the extent the events giving rise to such rights occurred subsequent to the holder assuming control of the Property (unless otherwise provided in the agreement between the Agency and the holder).

10.5 Right of Agency to Cure. In the event that (a) the Developer has committed a breach or default under a Approved Security Interest prior to the completion of the Project, and (b) the holder has not exercised its option to complete the development called for on the Property and Craneway, then the Agency may cure the default prior to the completion of any foreclosure. In such event the Agency shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Property and Craneway or any portion thereof to the extent of such costs and disbursements. Any such lien shall be subject to any Approved Security Interest executed for the sole purpose of obtaining funds to purchase and develop the Property and Craneway as authorized in this Agreement.

10.6 Right of Agency to Satisfy Other Liens. After the Closing and prior to the recordation of a Certificate of Completion for the Project pursuant to Section 6.11 and after the Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the Property and Craneway or any portion thereof, the Agency shall have the right but not the obligation to satisfy any such lien or encumbrance; provided, however, that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as (a) the Developer in good faith shall contest the validity or amount thereof, (b) such delay in payment shall not subject the Property and Craneway or any portion thereof to forfeiture or sale, and (c) the Developer shall, prior to the date such tax, assessment, lien or charge is due and payable, have given such reasonable security as may be required by the Agency from time to time in order to ensure payment of such taxes, assessments, lien or charge to prevent any sale, foreclosure or forfeiture of the Property and Craneway or the improvements thereon, or any part thereof, by reason of such nonpayment.

10.7 Holder to be Notified. The Developer, for itself, its successors and assigns hereby warrants and agrees that each term contained herein dealing with Approved Security Interest and rights of holders of Approved Security Interests shall be either inserted into the relevant Approved

Security Interest or acknowledged by the holder prior to its coming into any security right or interest in the Property and Craneway.

10.8 Modifications. If a holder of a Security Financing Interest should, as a condition of providing financing for development of all or a portion of the Development, request any modification of this Agreement in order to protect its interests in the Development or this Agreement, the Agency shall consider such request in good faith consistent with the purpose and intent of this Agreement and the rights and obligations of the parties under this Agreement.

ARTICLE 11. GENERAL REMEDIES DURING DEVELOPMENT

11.1 Application of Remedies. Before issuance of a Certificate of Completion for the Project, the provisions of this Article shall govern the parties' remedies for breach or failure of the Agreement.

11.2 No Fault of Parties. The following events constitute a basis for a party, otherwise allowed by this Agreement, to terminate this Agreement without the fault of the other:

(a) Either party disapproves the Site Investigation Reports and/or the environmental conditions of the Property and Craneway in the time and manner provided in Section 2.6; or

(b) The Developer, despite good faith efforts, is unable to obtain any Building Permits or Land Use Approvals necessary to allow construction of the Project substantially in accordance with the Agency approved Final Construction Plans; or

(c) The Developer, despite good faith efforts on the part of both the Agency and Developer, is unable to obtain Agency approval of Developer's submitted Preliminary Site Plan, Design Development Documents and/or material changes thereto, Final Construction Plans, Financing Plan, or evidence of financing prior to Closing; or

(d) The Agency, despite diligent good faith efforts, is unable to meet any condition set forth in Article 3 within the time and in the manner specified therein;

(e) The parties, despite good faith efforts on the part of both the Agency and the Developer are unable to reach agreement on the redesign of the Project necessitated by life-safety concerns in the ninety (90) day period set forth in Section 2.4(e)

Upon happening of any of the above-described events, and at the election of either party, this Agreement may be terminated by five (5) days' written notice to the other party. Upon the effective date of the notice of termination neither party shall have any rights against or liability to the other (except for the provisions that state they survive termination of this Agreement) and the Agency shall return to the Developer the Deposit as described in Section 2.5.

11.3 Fault of Agency. Except as to events constituting a basis for termination under Section 11.2 and subject to Section 12.4, the following events each constitute a basis for the Developer to take action against the Agency:

(a) The Agency fails to convey the Property within the time, manner and form herein called for and the Developer is otherwise entitled by this Agreement to such conveyance; or

(b) The Agency fails to give the Developer timely approval or disapproval of the Preliminary Site Plan, the Design Development Documents, and the Financing Plan as called for in Sections 2.4, 2.7, and 2.10, respectively; or

(c) The Agency does not attempt diligently and in good faith to cause satisfaction of the conditions set forth in Article 3.

(d) The Agency breaches any other material provision of this Agreement.

Upon the happening of any of the above-described events, the Developer shall first notify the Agency in writing of its purported breach or failure, giving the Agency thirty (30) days after receipt of such notice to cure such breach or failure. In the event the Agency does not then cure the default within such thirty-day period (or, if the default is not susceptible of cure within such thirty-day period, the Agency fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), then the Developer shall be entitled to any rights afforded it in law or in equity and the Agency shall return to the Developer the Deposit as described in Section 2.5.

11.4 Fault of Developer. Except as to events constituting a basis for termination under Section 11.2 and subject to Section 12.4, the following events each constitute a basis for the Agency to take action against the Developer:

(a) The Developer does not attempt diligently and in good faith to cause satisfaction of all conditions set forth in Article 2 and its obligations as set forth in Article 4; or

(b) The Developer refuses for any reason (including, but not limited to, lack of funds) to accept conveyance from the Agency of the Property and lease of the Craneway from the City or to provide funds to the Agency within the time periods and under terms called for in this Agreement; or

(c) The Developer does not attempt in good faith to procure in a timely manner the Building Permit(s) or Land Use Approvals of the Project or abandons any further attempts when there is a reasonable likelihood that such permit or approval would otherwise be issued by the proper authority in a timely manner; or

(d) The Developer fails to commence or complete construction of the Project within the time limits set forth in this Agreement and in the manner set forth in Article 6; or

(e) The Developer abandons or suspends construction of the Project for a period of thirty (30) days after written notice by the Agency of such abandonment or suspension; or

(f) The Developer voluntarily or involuntarily makes a Transfer except as permitted by this Agreement; or

(g) There is any change in the ownership of the Developer, or the parties in control of the Developer or any assigns or successors in violation of this Agreement; or

(h) A Bankruptcy/Insolvency Event occurs with respect to the Developer; or

(i) The Developer authorizes recordation of a lien of a non-Approved Security Interest against the Property and Craneway or the Project prior to the recordation of a Certificate of Completion; or

(j) The Developer materially defaults under an Approved Security Interest or under the terms of an approved loan document prior to the issuance of a Certificate of Completion for the entire Project, and such default is not cured by the Developer within the time provided for such cure under the applicable loan documents; or

(k) The Developer materially defaults under any provision of the Craneway lease with the City; or

(l) The Developer breaches any provision of Article 5; or

(m) The Developer breaches any provision of Article 7; or

(n) The Developer breaches any provision of Article 8; or

(o) The Developer breaches any provision of Article 9; or

(p) The Developer breaches any other material provision of this Agreement; or

(q) The Developer fails to repay the principal and any interest on the Section 108 Loan, within ten (10) days of receipt of written notice from the Agency that such payment is due; or

(r) The Developer fails to repay the principal and any interest due under the Agency Note, within ten (10) days of receipt of written notice from the Agency that such payment is due.

Upon the happening of any of the events described above, the Agency shall first notify the Developer in writing of its purported breach, failure or act above-described, giving the Developer thirty (30) days from receipt of such notice to cure such breach, failure, or act. If the Developer does not cure the default within such thirty-day period (or if the default is not susceptible of being

cured within such thirty-day period, the Developer fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), or within the time set forth in Sections 11.4(q) and 11.4(r) with respect to the events described in Sections 11.4(q) and 11.4(r) respectively, then the event constitutes an "Event of Default" and the Agency shall be afforded all of its rights at law or in equity by taking any or all of the following remedies: (i) terminate this Agreement in writing; (ii) prosecute an action for damages against the Developer; (iii) seek specific performance of this Agreement against the Developer; (iv) exercise the rights and remedies specified in Sections 11.5, 11.6, 11.7 and/or 11.8; or (v) seek any remedy against the Developer available at law or in equity in addition to retaining the Deposit as described in Section 2.5.

11.5 Right of Reverter.

(a) If this Agreement is terminated pursuant to Section 11.4 following the Closing and prior to the issuance of the Certificates of Completion of the Project, then the Agency may, in addition to other rights granted in this Agreement, re-enter and take possession of the Property or any portion thereof with all improvements thereon, and revest in the Agency the estate theretofore conveyed to the Developer. The interest created pursuant to this Section 11.5 shall be a "power of termination" as defined in California Civil Code Section 885.010, and shall be separate and distinct from the Agency's option to purchase the Property under the same or similar conditions specified in Section 11.6.

(b) The rights granted in this Section 11.5 shall be subject to and be limited by and shall not defeat, render invalid, or limit:

(1) Any Approved Security Interest permitted by this Agreement.

(2) Any rights or interests provided in this Agreement for the protection of the holder of such Approved Security Interests.

(c) The Grant Deed from the Agency to the Developer shall contain appropriate reference and provision to give effect to the Agency's right of reverter as set forth in this Section 11.5.

(d) Upon re-vesting in the Agency of title to the Property or any portion thereof as provided in this Section 11.5, the Agency shall, pursuant to its responsibilities under State law, use its best efforts to resell the Property or applicable portion thereof and as soon as possible, in a commercially reasonable manner and consistent with the objectives of such law and of the Redevelopment Plan to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Project in accordance with the uses specified for such property in the Redevelopment Plan and in a manner satisfactory to the Agency. Upon such resale of the Property or any portion thereof the proceeds thereof shall be applied as follows:

(i) First to reimburse the Agency on its own behalf or on behalf of the City for all costs and expenses incurred by the Agency, including but not limited

to salaries of personnel and legal fees incurred in connection with the recapture, management, and resale of the Property or any portion thereof and (but less any income derived by the Agency from any part of the Property in connection with such management); all taxes, installments of assessments payable prior to resale, and applicable water and sewer charges with respect to the Property or any portion thereof (or, in the event the Property or any portion thereof is exempt from taxation or assessment or such charges during the period of ownership by the Agency, an amount equal to the taxes, assessments, or charges that would have been payable if the Property or any portion thereof was not so exempt); any payments made or necessarily to be made to discharge any encumbrances or liens existing on the Property or any portion thereof at the time of re-vesting of title in the Agency or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer, its successors or transferees; and expenditures made or obligations incurred with respect to the making or completion of the Project or any part thereof on the Property; and, any amounts otherwise owing the Agency by the Developer and its successors or transferee.

(ii) Second, to reimburse the Agency for damages to which it is entitled under this Agreement by reason of the Developer's default.

(iii) Third, to reimburse the Developer, its successor or transferee, up to the amount equal to:

1. The payment made to the Agency for the Property or applicable portion thereof pursuant to Section 4.3; plus

2. The fair market value of the improvements the Developer has placed on the Property or applicable portion thereof; less

3. Any gains or income withdrawn or made by the Developer from the Property or applicable portion thereof, or the improvements thereon.

(e) Notwithstanding the foregoing, the amount calculated pursuant to subsection (d) shall not exceed the fair market value of the Property or applicable portion thereof, together with the improvements thereon as of the date of the default or failure which gave rise to the Agency's exercise of the right of reverter.

(f) Any balance remaining after such reimbursements shall be retained by the Agency as its property.

The rights established in this Section 11.5 are to be interpreted in light of the fact that the Agency will convey the Property to the Developer for development and not for speculation.

11.6 Option to Repurchase, Reenter and Repossess.

(a) The Agency shall have the additional right at its option to repurchase, reenter and take possession of the Property or any portion thereof owned by the Developer with all improvements thereon, if after conveyance of title to any portion of the Property and prior to the issuance of all the Certificates of Completion of the Project, there is an Event of Default pursuant to Section 11.4.

(b) Such right to repurchase, reenter and repossess, to the extent provided in this Agreement, shall be subordinate and subject to and be limited by and shall not defeat, render invalid or limit;

(1) Any Approved Security Interest permitted by this Agreement; or

(2) Any rights or interest provided in this Agreement for the protection of the holder of such Approved Security Interests.

(c) To exercise its right to repurchase, reenter and take possession with respect to the Property owned by the Developer, the Agency shall pay to the Developer in cash an amount equal to:

(1) The purchase price paid to the Agency for the applicable portion of the Property pursuant to Section 4.3; plus

(2) The fair market value of the improvements existing on the applicable portion of the Property at the time of the repurchase, reentry and repossession; less

(3) Any gains or income withdrawn or made by the Developer from the applicable portion of the Property or the improvements thereon; less

(4) The value of any unpaid liens or encumbrances on the applicable portion of the Property which the Agency assumes or takes subject to said encumbrances.

11.7 Plans, Data and Approvals. If this Agreement is terminated pursuant to Section 11.2 or Section 11.4, then the Developer shall promptly assign and deliver to the Agency, copies of all plans, studies, reports, data and specifications for the Project, all permits and approvals obtained in connection with the Project, and all applications for permits and approvals not yet obtained but needed in connection with the Project (collectively, the "Planning Documents") upon receipt of payment from the Agency for the Planning Documents, which payment shall equal the amount the Developer paid for such Planning Documents as established by third-party invoices. The Agency or any other person or entity designated by the Agency shall be free to use such Planning Documents, including Planning Documents previously delivered to the Agency, for any reason whatsoever, without cost to the Agency. However, if the Planning Documents are used by the Agency or an entity designated by the Agency, neither the Developer nor its consultants shall be liable to the Agency or designated entity because of this use.

11.8 Acceleration of Agency Note; Section 108 Note. With respect to a Developer Event of Default described in Section 11.4, the Agency shall have the right to cause all indebtedness of the Developer to the Agency under this Agreement, the Agency Note and/or the Section 108 Note, together with any accrued interest thereon, to become immediately due and payable. The Developer waives all right to presentment, demand, protest or notice of protest or dishonor. The Agency may proceed to enforce payment of the indebtedness and with respect to the Agency Note and Section 108 Note, to exercise any or all rights afforded to the Agency as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure under the Agency Deed of Trust and/or Section 108 Loan Deed of Trust. The Developer shall be liable to pay the Agency on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the Agency in connection with the collection of the amounts due under the Section 108 Loan Note and/or the Agency Note and the preservation, maintenance, protection, sale, or other disposition of the security given under the Agency Deed of Trust and/or the Section 108 Deed of Trust.

11.9 Survival. Upon termination of this Agreement under Article 11, the following provisions of this Agreement shall survive: the Developer's waiver of any right to reimbursement or indemnification from the Agency in Section 4.5; and, the indemnification obligations in Sections 4.7, 6.9, 7.4(d) and 12.8. This Section 11.9 exists for reference purposes only and does not alter the scope or nature of the surviving provisions.

11.10 Rights and Remedies Cumulative. Except as otherwise provided, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise any right or remedy shall not preclude the exercise, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

ARTICLE 12. GENERAL PROVISIONS

12.1 Notice, Demands and Communication. Formal notices, demands, and communications between the Agency and the Developer shall be in writing and shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail/return receipt, or delivered personally, to the principal offices of the Agency and the Developer as follows:

Agency:	Redevelopment Agency of the City of Richmond 1401 Marina Way South Richmond, CA 94804 Attn: Community and Economic Development Director
With copies to:	City Attorney's Office 1401 Marina Way South Richmond, CA 94804 Attn: City Attorney

Developer:	Orton Development, Inc. 3049 Research Drive Richmond, CA 94806 Attn: J.R. Orton III
With copies to:	Stein & Lubin LLP 600 Montgomery Street, 14th Floor San Francisco, CA 94111 Attn: Mark Lubin, Esq.

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section 12.1. No party shall evade or refuse delivery of any notice.

12.2 Conflict of Interests. No member, official or employee of the Agency shall make any decision relating to the Agreement which affects his or her personal interests or the interest of any corporation, partnership or association in which he is directly or indirectly interested.

12.3 Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of the Agency or the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to the Developer or successor or on any obligation under the terms of this Agreement.

12.4 Enforced Delay. In addition to specific provisions of this Agreement, performance by either party shall not be deemed to be in default where delays or defaults are due to war; acts of terrorism; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; freight embargoes; energy shortages or rationing; lack of transportation; or court order; or any other similar causes (other than lack of funds of the Developer or the Developer's inability to finance the acquisition of the Property or any portion thereof or construction of the Project) beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other party within ten (10) days of receipt of the notice. Times of performance under this Agreement may also be extended by written agreement of the Agency and the Developer. If the Developer encounters unexpected circumstances beyond the reasonable control of the Developer, including but not limited to the inability of the Developer to obtain Land Use Approvals or a Building Permit after diligently proceeding to obtain the Land Use Approval or Building Permit, the Developer may request that the Agency meet and confer in good faith with the Developer to determine whether the Developer's time of performance should be extended beyond the time periods provided in this Section 12.4.

12.5 Inspection of Books and Records. The Agency and its agents have the right at all reasonable times to inspect on a confidential basis the books, records and all other documentation of the Developer pertaining to its obligations under this Agreement. The Developer also has the right at all reasonable times to inspect the books, records and all other documentation of the

Agency pertaining to its obligations under this Agreement to the extent such items to be inspected are part of the public record. The Developer and the Agency shall retain such books, records and documentation for a period of five (5) years after the later of: a) their creation or b) issuance of the Certificate of Completion.

12.6 Provision Not Merged with Deeds. None of the provisions of this Agreement are intended to or shall be merged by the Grant Deed(s) transferring title to any real property the subject of this Agreement from the Agency to the Developer or any successor in interest and such Grant Deed(s) shall not be deemed to affect or impair the provisions and covenants of this Agreement.

12.7 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 construing or interpreting any part of its provision.

12.8 Indemnity. The Developer shall indemnify, defend and hold the Agency, the City and their respective board members, council members, directors, officials, employees, agents, successors, and assigns harmless against all claims made against them, causes of action, administrative proceedings, arbitrations or enforcement actions which arise out of or in connection with the Developer's ownership, occupancy, or development of the Property and Craneway or construction on the Property and Craneway by the Developer or the Developer's contractors, subcontractors, agents, employees or tenants and all damages (direct or consequential), costs, losses, injuries, fines, penalties, liens, encumbrances, charges, liabilities, demands, judgments, remedial action requirements, obligations, and all costs and expenses incurred in connection therewith (including, but not limited to, attorney fees and costs); provided, however, that this indemnity shall not extend to any claim arising solely from the Agency's failure to perform its obligations under this Agreement or solely from the gross negligence or willful misconduct of the Agency, the City, or their respective board members, council members, directors, officials, employees, agents, successors, and assigns.

12.9 Insurance. The Developer shall cause to have in full force and effect during the construction of the Project pursuant to this Agreement all insurance policies as set forth in the attached Exhibit G.

12.10 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California.

12.11 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

12.12 Legal Actions.

(a) In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the party

prevailing in any such action shall be entitled to recover against the party not prevailing all reasonable attorney fees and costs incurred in such action, including attorney fees and costs of any appeals.

(b) In the event legal action is commenced by a third party or parties, the effect of which is to directly or indirectly challenge or compromise the enforceability, validity, or legality of the Agreement and/or the power of the Agency to enter into this Agreement or perform its obligations hereunder, either the Agency or the Developer may (but shall have no obligation to) defend such action. Upon commencement of any such action, the Agency and the Developer shall meet in good faith and seek to establish a mutually acceptable method of defending such action.

12.13 Binding Upon Successors; Covenants to Run With Land. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties; provided, however, that there shall be no transfer of any interest by the Developer except pursuant to the terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

The terms of this Agreement shall run with the land and shall bind all successors in title to the Property and Craneway during the Term of this Agreement, except that the provisions of this Agreement that are specified to survive termination of this Agreement shall run with the land in perpetuity and remain in full force and effect following such termination. Every contract, deed, or other instrument hereafter executed covering or conveying the Property and Craneway or any portion thereof shall be held conclusively to have been executed, deliver, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restricts are set forth in such contract, deed or other instrument, unless the Agency expressly releases the Property and Craneway or the applicable portion of the Property and Craneway from the requirements of this Agreement.

12.14 Discretion Retained by City. The Agency's execution of this Agreement does not constitute approval by the City and in no way limits the discretion of the City in the permit and approval process in connection with development of the Project

12.15 Recordation of Memorandum of Agreement. The Developer consents to the recordation against the Property and Craneway of a memorandum of this Agreement in the records of the County Recorder of Contra Costa County.

12.16 Parties Not Co-Venturers. Nothing in this Agreement is intended to or does establish the parties as partners, co-venturers, or principal and agent with one another.

12.17 Employment Opportunity. The Developer and its successors, assigns, contractors and subcontractors shall not discriminate against any employee or applicant for employment in connection with the construction and operation of the Project because of race, color, religion, sex, sexual preference, marital status, ancestry or national origin. Each of the following activities shall be conducted in a nondiscriminatory manner: hiring; upgrading; demotion and transfers;

recruitment and recruitment advertising; layoff and termination; rate of pay and other forms of compensation; and selection for training including apprenticeship.

12.18 Warranties. The Agency expresses no warranty or representation to the Developer as to fitness or condition of the Property and Craneway or any portion thereof for the building or construction to be conducted thereon.

12.19 Action by the Agency or Developer.

(a) Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent, request, or other action by the Agency is required or permitted under this Agreement, such action may be given, made, or taken by the Agency's Community and Economic Development Director, or by any person who shall have been so designated in writing to the Developer by the Community and Economic Development Director (the "Community and Economic Development Director"), without further action or approval by the Agency Board, and any such action shall be in writing. The Community and Economic Development Director may, in his or her discretion, agree in writing to modification of the dates by which action are to be complete or to waive any terms and conditions of this Agreement or to make reasonable modifications to the Agreement requested by lenders to the Project. The Community and Economic Development Director, or his or her designee is authorized to execute all ancillary documents necessary to effectuate the intent of this Agreement, substantially in the form on file with the Agency Secretary and to negotiate and execute amendments to this Agreement substantially in conformance with the intent of this Agreement as reasonably necessary to conform to funding, lender, and City and/or Agency or outside agency'(s) requirements.

(b) Developer shall take all actions necessary to implement the provisions of this Agreement and to complete those performances required of Developer.

12.20 City As Third-Party Beneficiary. The City shall be a third-party beneficiary retaining enforcement rights with respect to this Agreement. Except as set forth in the preceding sentence, no person or entity other than the Agency, the Developer, and their permitted successors and assigns shall have any right of action under this Agreement.

12.21 Counterparts. This Agreement may be executed in counterparts and multiple originals.

12.22 Amendments. The parties can amend this Agreement only by means of a writing signed by both parties.

12.23 Identity and Authority of Developer. Each of the persons executing this Agreement on behalf of the Developer does hereby covenant and warrant that: (a) the Developer is a duly authorized and existing California corporation; (b) the Developer has, is and shall remain in good standing and qualified to do business in the State of California: (c) the Developer has full right, power and authority to enter into this Agreement and to carry out all actions on its part contemplated by this Agreement; (d) the execution and delivery of this Agreement were duly authorized by proper action of the Developer and no consent, authorization or approval of any

person or other entity is necessary in connection with such execution and delivery or to carry out all actions on the Developer's part contemplated by this Agreement, except as may have been obtained and are in full force and effect; (e) the persons executing this Agreement on behalf of the Developer have full corporate authority to do so; (f) the Agreement constitutes the valid, binding and enforceable obligation of the Developer; (g) the financial statements of the Developer and all other financial data and information furnished by the Developer to the Agency fairly and accurately present the information contained therein; and, (h) as of the date of this Agreement, there has not been any adverse, material change in the financial condition of the Developer from that shown by such financial statements and other data and information.

12.24 Entire Understanding of the Parties. This Agreement is executed in three (3) duplicate originals, each of which is deemed to be an original. This Agreement consists of 55 pages and the attached Exhibits A through J and constitutes the entire understanding and agreement of the parties. All prior discussions, understandings and written agreements are superceded by this Agreement.

Exhibit A
Site Map

WHEREFORE, the parties have executed this Agreement on or as of the date first above written.

REDEVELOPMENT AGENCY OF THE CITY OF RICHMOND (the "AGENCY")

REVIEWED:

BY: _____
AGENCY ATTORNEY

_____ CHAIRPERSON

ATTEST:

BY: _____
AGENCY SECRETARY

ORTON DEVELOPMENT , INC.,
a California corporation (the "DEVELOPER")

By: _____
J.R. Orton, III

Its: President

Exhibit B
Legal Descriptions of the Property and Craneway

Exhibit C
Form of Grant Deed

Exhibit D
Scope of Development

Developer proposes to rehabilitate the building as a mixed-use project consistent with the Know Freeway/Cutting Boulevard Corridor Specific Plan, which will include various business elements, community organizations, educational institutions, live/work units, visitor center for the National Park Service, public gathering destination, and public access to the Bay Trail.

The Craneway design includes a restaurant, education, entertainment, galleries, and display areas, retail, and gathering destination for groups and events consistent with the California State Lands Commission public trust easement. The Rosie the Riveter Visitor's Center has been allocated 10,000 square feet at the west side of the Craneway. The ground floor in the main building consisting of approximately 300,000 square feet will be primarily for larger R&D/flex and light industrial users with loading dock requirements. Live/work units totaling approximately 160,000 square feet are planned for the second floor. The historic Ford offices, on the second floor, comprised of 7,625 square feet will be historically renovated and returned to office use. During the course of development, the Oil House will either be designed for office use or overflow space for the restaurant.

Exhibit E
Schedule of Performance

This Schedule of Performance summarizes the schedule for various activities under the Disposition and Development Agreement (the "Agreement" or the "DDA") to which this exhibit is attached. The description of items in this Schedule of Performance is meant to be descriptive only, and shall not be deemed to modify in any way the provisions of the DDA to which such items relate. Section references herein to the DDA are intended merely as an aid in relating this Schedule of Performance to other provisions of the DDA and shall not be deemed to have any substantive effect.

Whenever this Schedule of Performance requires the submission of plans or other documents at a specific time, such plans or other documents, as submitted, shall be complete and adequate for review by the Agency or other applicable governmental entity within the time set forth herein. Prior to the time set forth for each particular submission, the Developer shall consult with Agency staff informally as necessary concerning such submission in order to assure that such submission will be complete and in a proper form within the time for submission set forth herein.

Action	Date
Items 1 – 39 Relate to Developer Actions and Requirements as Set Forth in Article 2	
1. Submit - Site Investigation Reports. The Agency shall deliver the Site Investigation Reports to the Developer. [DDA § 2.6(a)]	Prior to the date of the DDA.
2. Submission - Preliminary Site Plan. The Developer shall submit the Preliminary Site Plan to the Agency. [DDA § 2.4]	Prior to the date of the DDA.
3. Review – Preliminary Site Plan. The Agency shall review the proposed Preliminary Site Plan and shall approve it. [DDA § 2.4]	Within 30 days of receipt.
4. Resubmission –Preliminary Site Plan. If disapproved by the Agency, the Developer shall submit a revised Preliminary Site Plan to the Agency for approval. [DDA § 2.4]	Within 30 days of disapproval.
5. Review - Revised Preliminary Site Plan. The Agency shall either approve or disapprove the revised Preliminary Site Plan. [DDA § 2.4]	Within 30 working days of receipt, with final approval to occur no later than 90 days after the date of this Agreement.

Action	Date
6. Negotiation of New Preliminary Site Plan. The Developer and the Agency shall negotiate new site plan necessitated by life safety and seismic concerns. [DDA § 2.4]	Within 90 days of determination by City building department official that original Preliminary Site Plan is infeasible due to life safety/seismic concerns.
7. Deposit. The Developer shall deposit with the Agency $1,000,000. [DDA § 2.5]	Upon execution of DDA.
8. User Commitments. The Developer shall use best efforts to negotiate lease commitments for all of the commercial space within the Project [DDA § 2.16]	Upon execution of the DDA.
9. Review- Site Investigation Reports. The Developer shall review the Site Investigation Reports and accept the conditions set forth in the Site Investigation Reports. [DDA § 2.6(b)]	Within 30 days after the date of this Agreement.
10. Submission – CEQA/NEPA Documentation. The Developer shall submit to the Agency information necessary to perform CEQA/NEPA review. [DDA § 2.2]	Within 60 days after date of the DDA.
11. Submission – Design Development Documents. The Developer shall submit the Design Development Documents to the Agency. [DDA § 2.7]	Within 60 days after the date of the DDA.
12. Review – Design Development Documents. The Agency Community and Economic Development Director shall review the proposed Design Development Documents and shall approve them. [DDA § 2.7]	Within 30 days of receipt.
13. Resubmission – Design Development Documents. If disapproved by the Agency, the Developer shall submit revised Design Development Documents to the Agency for approval. [DDA § 2.7]	Within 45 days of disapproval.
14. Review - Revised Design Development Documents. The Agency shall either approve or	Within 30 working days of receipt, with final approval to occur no later than 150

Action	Date
disapprove the revised Design Development Documents. [DDA § 2.7]	days after the date of this Agreement.
15. Land Use Approvals. The Developer shall obtain any and all Land Use Approvals (other than the Building Permit). [DDA § 2.8]	Within 60 days after Agency approval of the Design Development Documents.
16. Submission – Final Construction Plans. The Developer shall submit the Final Construction Plans for Agency approval. [DDA § 2.9]	No later than 60 days following Agency approval of Design Development Documents.
17. Review – Final Construction Plans. The Agency shall review the proposed Design Development Documents and shall approve them. [DDA § 2.9]	Within 60 days of receipt.
18. Resubmission – Final Construction Plans. The Developer shall submit corrected Final Construction Plans for the Project. [DDA § 2.9]	Within 30 days after Agency's disapproval notice.
19. Review – Revised Final Construction Plans. The Agency will either approve or disapprove the revised Final Construction Plans for the Project. [DDA § 2.9]	Within 15 days of resubmission, with final approval to occur no later than 11 months after the date of the Agreement.
20. Submission – Financing Plan. The Developer shall submit the Financing Plan to the Agency for review and approval. [DDA § 2.10]	At the time the Developer submits the Design Development Documents for the Project.
21. Review – Financing Plan. The Agency shall review the proposed Financing Plan and shall approve it. [DDA § 2.10]	Within 30 days of receipt.
22. Resubmission – Financing Plan. The Developer shall submit a corrected Financing Plan for the Project. [DDA § 2.10]	Within 30 days after Agency's disapproval notice.

Action	Date
23. Review – Financing Plan. The Agency will either approve or disapprove the revised Financing Plan for the Project. [DDA § 2.10]	Within 15 days of resubmission, with final approval to occur no later than 11 months after the date of the Agreement.
24. Submission - Building Permit Application. The Developer shall submit a Building Permit application to the City for the Project. [DDA § 2.11]	No later than 10 days after the Agency's approval of the Final Construction Plans for the Project, in any event not later than one year after the date of the Agreement.
25. Evidence of Availability of Funds. The Developer shall submit to Agency evidence that conditions to release funds in Financing Plan have been met or will be met at Closing. [DDA § 2.12]	Within 10 days following issuance of the Building Permit for the Project, in any event not later than one year after the date of the Agreement.
26. Submission - Construction Contract. The Developer shall submit a copy of all Construction Contracts for the Project to the Agency's Community and Economic Development Director or designee. [DDA § 2.13]	Within 10 days after the issuance of the Building Permit for the Project.
27. Disapproval – Construction Contract. If applicable, the Agency's Community and Economic Development Director or a designee notifies the Developer of the disapproval of contract(s). [DDA § 2.13]	Within 10 days after the submission of contract(s).
28. Submission - Insurance. The Developer shall have furnished the Agency with evidence of the insurance coverage. [DDA § 2.15]	Not less than 10 days prior to initiating any work on the Project.
29. Review – Insurance. The Agency shall review the evidence of insurance and shall approve it. [DDA § 2.15]	Within 10 days of receipt.
30. Resubmission – Insurance. The Developer shall submit revised insurance for the Project. [DDA § 2.15]	Within 15 days after Agency's disapproval notice.

Action	Date
31. Review – Insurance. The Agency will either approve or disapprove the revised insurance for the Project. [DDA § 2.15]	Within 10 days of resubmission, with final approval to occur no later than one year after the date of the Agreement.
32. Refit Work. The Developer shall complete the Refit Work. [DDA § 2.3]	Prior to Closing.
33. Delivery of Agency Note and Deed of Trust. The Developer shall deliver the Agency Note and Agency Deed of Trust to the Agency. [DDA § 2.17]	Prior to Closing.
34. Delivery of Section 108 Loan Note and Section 108 Loan Deed of Trust. The Developer shall deliver the Section 108 Loan Note and Section 108 Loan Deed of Trust to the Agency. [DDA § 2.18]	Prior to Closing.
35. National Park Service Lease. The Developer shall have begun good faith negotiations with NPS. [DDA § 2.19]	Prior to Closing.
36. Completion Guaranty. The Developer shall deliver the completion guaranty. [DDA § 2.21]	Prior to commencement of construction and prior to Closing.
37. Certificate of Readiness. The Developer shall certify to the Agency that the Developer is ready, willing and able, in accordance with the terms of the DDA. [DDA § 2.21]	Prior to commencement of construction and prior to Closing.
38. Cooperation in Securing HUD Funds. The Developer shall cooperate with the Agency in securing the HUD Funds. [DDA § 2.22]	Prior to Closing.
39. Ferry Terminal Public Access Easement. The Developer shall execute an easement agreement regarding ferry terminal public access. [DDA § 2.20]	At Closing.
Items 40 – 43 Relate to Agency Actions and Requirements As Set Forth in Article 3.	
40. CEQA/NEPA Review. The Agency shall complete any required environmental review under CEQA and NEPA. [DDA § 3.2]	Prior to Closing.

Action	Date
41. Tidelands Exchange Agreement. The Agency shall formalize the Exchange Agreement. [DDA § 3.3]	Prior to Closing.
42. Use of HUD Funds. The Agency shall comply with all HUD requirements regarding the HUD Funds. [DDA § 3.4]	Prior to Closing.
43. Craneway Lease. The Agency shall use best efforts to have the City enter into a lease with the Developer for the Craneway. [DDA § 3.5]	Prior to Closing.
Items 44 – 46 Relate to the Closing As Set Forth In Article 4 And Construction of the Project As Set Forth In Article 6.	
44. Closing. The Agency shall convey the Property to the Developer. [DDA § 4.3]	Within 30 days after the Developer's pre-disposition conditions in Article 2 of the DDA are met and the Agency's pre-disposition conditions in Article 3 of the DDA are met, but in no event later than December 18, 2004.
45. Commencement of Construction. The Developer shall commence construction of the Project. [DDA § 6.3]	Within 30 days after the Closing.
46. Completion of Construction. The Developer shall complete construction of the Project and the Public Improvements. [DDA § 6.4]	Within 18 months after actual commencement of construction but in no event later than 3 years after actual commencement of construction.

Exhibit F
Preliminary Site Plan

Exhibit G
Insurance Requirements

1. Liability and Property Damage Insurance.

During the term of this Agreement, the Developer shall keep in full force and effect a policy or policies of commercial general liability and property damage insurance against liability for bodily injury to or death of any person or property damage arising out of an occurrence on or about the Property, including, but not limited to, coverage for explosion hazard and collapse/underground hazard. The limits of such insurance shall be not less than five million dollars ($5,000,000) per occurrence and ten million dollars ($10,000,000) aggregate for bodily injury and property damage, provided that the limits for Developer's insurance hereunder shall be reduced to $1,000,000 and $2,000,000, respectively during (but solely during) any period in which the following conditions are satisfied: (a) Developer's general contractor and subcontractors keeps in full force and effect on the Site a policy or policies of comprehensive general liability and property damage insurance against liability for bodily injury to or death of any person or property damage arising out of an occurrence on or about the Site, including, but not limited to, coverage for explosion hazard and collapse/underground hazard, with limits of not less than five million dollars ($5,000,000) per occurrence and shall not be less than ten million dollars ($10,000,000.00) aggregate for bodily injury and property damage, (b) the Agency and the City are named as additional insureds on such general contractor coverage, and (c) such general contractor and subcontractor insurance policy or policies meets the conditions set forth in Section 4 below, including but not limited to the requirement for written notice thirty (30) days in advance of the effective date of any material change, cancellation or termination in such coverage. Each such policy or policies shall be written on an occurrence form.

2. Workers' Compensation Insurance.

The Developer shall cause to be carried workers' compensation insurance covering all persons employed in connection with the Property and with respect to whom death, bodily injury, or sickness insurance claims could be asserted against Agency or the Developer; provided, however, that the Developer itself is not required to carry workers' compensation coverage if it does not have employees.

3. Environmental Insurance.

The Agency has previously obtained environmental remediation insurance to cover the Property against the costs of unforeseen environmental contamination. The Developer shall carry or cause to be carried environmental remediation insurance or shall take action to be named a co-insured under the Agency's existing policy.

4. Insurance Policies and Premiums.

(a) All liability policies required by this Agreement (including the liability policy of the general contractor and subcontractors) shall name Agency and the City as an additional insured. Duplicate copies of such policies or certificates of such insurance shall be promptly furnished to Agency before the commencement of the construction of the Project.

(b) All policies of insurance shall provide that any change or cancellation of said policy must be made in writing and sent to the Developer and Agency at their respective principal offices at least thirty (30) days before the effective date of change or cancellation.

Exhibit H

Site Investigation Reports

1. PSI (Professional Service Industries, Inc) March 7, 1995, *Subsurface Investigation Ford Assembly Building Richmond California* for Hansen, Murakami and Eshima, Inc.

2. Professional Service Industries, Inc. / PSI Project No. 582-0A021, January 28, 2000, *Former Ford Assembly Plant, Richmond, California*

3. Professional Services, Inc. January 11, 2000, *Craneway Sampling, Former Ford Assembly Plant, 1414-1422 Harbour Way South, Richmond California*

4. Professional Services, Inc, 2000, *Phase I Environmental Site Assessment for the North Parcel, Harbour Way South, Richmond, California 94804*

5. Professional Services, Inc, 1999-2000, *Phase I Environmental Site Assessment for the Former Ford Assembly Plant Rehabilitation Project, 1414-1422 Harbour Way South, Richmond, California 94804.* December 8, revised January 20, 2000.

6. Terra Verde, 1999. *Draft Feasibility Study/Remedial Action Plan: Operable Units 2 and 3 Port of Richmond Shipyard No. 3 Scrap Area Site, Richmond, CA.*

7. LSA Associates, Inc. November 2000, *Administrative Draft:Ford Assembly Plant Planning amendments and Redevelopment Project, Environmental Impact Report*

8. Hansen Murakami Eshima, Inc. 1995. *Outline Specifications for Ford Assembly Building Earthquake Repair Project, Richmond California, Additional Investigations.*

9. Interactive Resources, Inc. 1992. *Historic Structures Report, Ford Motor Company Assembly Building, Richmond, California.*

10. TKM Transportation Consultants (TKJM), draft, August 2000, *Traffic Impact Study.*

11. Butt, Tomas K. and Geraldine Peterson, submission 1987, approval 1988. *National Register of Historic Places Registration Form for the Ford Motor Company Assembly Plant.*

12. Bay Conservation and Development Commission/Metropolitan Transportation Commission, September 18, 1997, *San Francisco Bay Area Seaport Plan.*

13. LSA Associates, Inc., November 2000, Administrative Draft: *Ford Assembly Plant Planning Amendments and Redevelopment Project, Environmental Impact Report.*

14. Ninyo & Moore, prepared for previous developer (APP), June 10, 2002, *Hazardous Building Materials Survey, Richmond Assembly Plant, 1414-1422 Harbour Way South, Richmond California.*

15. Carey & Co., Inc., 2000, *Ford Motor Company Assembly Building Window Survey.*

16. Carey & Co., Inc., 2000, *Point Development, Historic Preservation Certification Application*, Parts I and II.

17. Burt Olhiser, CAC, Vantage Point Environmental & Coatings Consulting, July 11, 2003, *Summary of Asbestos and Lead Abatement Activities at the Richmond Assembly Plant from September 2002 to July 2003.*

18. Burt Olhiser, CAC, Vantage Point Environmental & Coatings Consulting, September 29, 2003, *Redwood Painting Project Summary.*

19. Burt Olhiser, CAC, Vantage Point Environmental & Coatings Consulting, September 29, 2003, *Techno Coating, Inc. Project Summary.*

Exhibit I

Permitted Exceptions

1. Current taxes as of the date of Closing, a lien not yet due and payable.
2. The following exceptions set forth in the Preliminary Title Report: item numbers 2-5, 8, 14 and 15.
3. The covenants of Grantee contained in the Grant Deed.
4. The Memorandum of DDA.
5. The Section 108 Deed of Trust.
6. The Agency Deed of Trust.
7. A settlement agreement with the SLC.
8. Ferry Terminal public access easement.
9. Public rights of access to the shoreline and San Francisco Bay Trail.
10. The NPS lease and any other encumbrance created by, through or under Developer.

Exhibit J

CITY OF RICHMOND
FIRST SOURCE AGREEMENT

THIS AGREEMENT entered into this __ day of _____ 200_, by and between the CITY OF RICHMOND, a municipal corporation (hereinafter referred to as "City") and _____, (hereinafter referred to as "Contractor).

WITNESSETH:

WHEREAS, the Contractor has been awarded a contract by the City to perform certain construction work described as follows: _____

WHEREAS, the Contractor desires to enter into this First Source Agreement with the City as a part of the Richmond*WORKS* Program;

NOW, THEREFORE, the parties hereto mutually agree as follows:

The Contractor and the City, through the City's Employment and Training Department, agree that, during the term of the Contract (including any extensions approved by the City Council) in seeking qualified employees to fill entry-level and new employment positions for construction, operations and maintenance and management personnel employed to perform this Contract or any such personnel permanently assigned to perform the Contract whether such positions be full-time, part-time, or seasonal, Contractor shall follow the following procedures:

A. The Contractor shall work with the local union and the City of Richmond, Employment and Training Department to fill those positions where there is a signatory agreement with the local union and the associated craft. The Contractor shall forward a copy of all personnel requests made to the trade unions, specifying the residency, ethnicity/gender of personnel requested, to the Employment and Training Department (this process is hereafter referred to as the "dual notification process"). In the dual notification process, the Contractor shall utilize the "namecall," "rehires," "transfers," and/or "sponsorship" options in maximizing the participation of Richmond residents. The dual notification requirement is the sole responsibility of the Contractor.

B. The Contractor shall work with the Employment and Training Department and the local union to hire a minority construction workforce reflecting parity with the minority West Contra Costa County population on a craft-by-craft basis, based on the 2000 census. The Contractor shall adopt the following goals:

- hire 50% of his/her workforce from bona fide residents of the City of Richmond. A minimum of 20% Richmond resident hire shall be achieved for the overall project.

- hire 50% of all apprenticeships or new workers shall be Richmond residents. A minimum of 40% Richmond resident new hires or apprentices shall be achieved until the minimum 20% Richmond resident hire is achieved on the project.

C. Prior to announcing or advertising the availability of an employment position created by vacancy of an existing position or of a new employment position in any communication medium (other than compliance with internal posting procedures) or with any employment or referral agency and in the event that the unions are unable to provide personnel, the Contractor shall notify Employment and Training Department in writing of such position, including a general description of the position and Contractor's minimum requirements for qualified applicants therefore, and shall request the Employment and Training Department to refer qualified applicants for such position to Contractor's trade union and/or personnel representative, as appropriate. The Contractor shall, at the same time, forward a copy of the notification to the Project Manager or his designee with a request to approve the use of temporary workers during the hiring period. The Contractor shall refrain from any general announcement or advertisement of the availability of such position for a period of ten (10) business days after notification to the Employment and Training Department. Such ten-day period is hereinafter referred to as the "Advance Notice Period."

D. Upon receipt from the Contractor of a notice of an employment position, the Employment and Training Department shall refer to the Contractor a minimum of one (1) and up to a maximum of five (5) candidates for employment who the Employment and Training Department believes are qualified for each position and who meet the Contractor's minimum requirements for such position, and shall make arrangements for the person or persons referred to be interviewed by the Contractor within the Advance Notice Period.

In the event that the Employment and Training department believes that it is unable to refer qualified candidates for such position within in the Advance Notice Period, it shall so inform the Contractor, as soon as possible, thereby waiving the obligation of the Contractor to refrain from further announcement or advertisement to fill such position during the balance of the Advance Notice Period.

E. In the event that any persons seek employment with the contractor at the job site, the Contractor shall have the person complete a Job Site Application consisting of name, address, telephone number, social security number and trade. The Contractor will then submit this information to the Employment and Training Department to the appropriate union hall.

F. Nothing contained herein shall prevent the Contractor from filling job vacancies or newly created positions without compliance with the foregoing procedures by transfer or promotion from its existing staff or from a file of qualified applicants maintained by the Contractor, provided, however, that the Contractor shall give consideration first to those applicants in such file or qualified applicants previously referred by the Employment and Training Department. Further, nothing contained herein shall be construed to require Contractor or any construction, operations and maintenance or management agent or independent subcontractor engaged by the Contractor to hire any candidate referred by the Employment and Training Department.

G. The Contractor shall incorporate the provisions of this First Source Agreement in all contracts, agreements, and purchase orders for labor with any construction, maintenance or management agent or independent subcontractor engaged by the Contractor whose personnel will be permanently assigned to the Contractor under the Contract and shall obligate such agent or independent subcontractor to comply with the procedures set forth in Paragraphs A through C above.

H. The Contract Compliance Officer shall be responsible for monitoring compliance with this Agreement. Contractor shall, on a monthly basis, furnish certified payroll sheets and any additional information required by the City to ascertain the status of Richmond residents hired via this Agreement. Failure to provide the City with proper document shall result in delay of progress payments for that portion which is deemed not in compliance with the provisions of this Agreement.

In the event that the Contractor is non-compliance with Article II Chapter 2.50 of the City of Richmond Municipal Code, in the sole opinion of the City, the City fully intends to invoke the Remedies set forth in Article II Chapter 2.50 of the Municipal Code which is made a part of this contract by reference.

Executed this _____ day of _____, 200__.

Contractor
By: _____

CITY OF RICHMOND
ACTING BY AND THROUGH
THE RICHMOND EMPLOYMENT AND
TRAINING DEPARTMENT

By: _____

Approved as to form:

_____
City Attorney

On this _____day of _____, 200_, before me appeared (Name)_____, to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (Name of Firm) _____ to execute the affidavit and did so as his or her free act and deed.

NOTARY PUBLIC_____
Commission Expires_____