

AGREEMENT TO NEGOTIATE EXCLUSIVELY

THIS AGREEMENT TO NEGOTIATE EXCLUSIVELY ("**Agreement**") dated for reference purposes as of February 7, 2017 ("**Date of Agreement**"), is entered into by and between the COUNTY OF SONOMA, a political subdivision of the State of California ("**County**"), and CHANATE COMMUNITY DEVELOPMENT PARTNERS LLC, a California limited liability company ("**Developer**"). County and Developer are sometimes referred to herein individually as "**Party**" or collectively as the "**Parties**".

RECITALS:

A. County has identified a need to create a comprehensive transition plan for County operations and facilities that supports the consolidation and modernization of its facilities and services. Currently, various County operations and services are provided within inadequate and obsolete facilities located on the Chanate Campus, an approximately 117 acre collection of County-owned property (the "**Site**"). The Site is depicted on Exhibit A attached hereto.

B. County envisions a private development project on the Site with the proceeds from the sale of the Site used to assist with the development of modern, energy efficient County facilities in more appropriate configurations and locations pursuant to a comprehensive transition plan. On August 11, 2015 the County Board of Supervisors ("**Board**") directed County staff to begin developing a multi-phase approach to solicit a master developer to work with the County to plan for the development of the Site.

C. On October 28, 2015, the County provided written offers to sell or lease the Site as surplus land to entities designated pursuant to Section 54222. Responses to the surplus property notices were due on December 28, 2015. No responses to the written offers to sell or lease the Site were received by the County. Accordingly, the County is authorized to undertake the sale or lease of the Site pursuant to California Government Code §§25515 *et seq.*

D. Consistent with the County's vision to maximize and leverage the value of the Site in connection with the consolidation and modernization of its facilities and services, on February 2, 2016, the Board authorized the issuance of a Request for Proposals ("**RFP**") soliciting a master developer to work with the County to repurpose the Site as a new mixed-use community providing housing to serve the diverse needs of the community; a village center with neighborhood retail, services, arts and cultural opportunities; and extensive open space areas, while retaining existing facilities for the Coroner and Public Health Lab (the "**Project**"). The final configuration of the Site will be refined as a component of the negotiations contemplated by this Agreement.

E. On June 21, 2016, two prospective developers submitted proposals in response to County's RFP. The proposals were evaluated by a Selection Committee and staff's recommendation was presented to the Board in closed session on September 8, 2016. At the conclusion of the September 8, 2016 meeting, the Board accepted the staff recommendation and authorized staff to begin negotiations with the Developer regarding the potential disposition and development of the Site.

F. The County and Developer now desire to enter into this Agreement in order to set forth the terms under which County and Developer will exclusively negotiate the terms and conditions of a proposed Disposition and Development Agreement ("**DDA**") providing for conveyance and development of the Site.

G. Approval of this Agreement by County is a "project" as defined in accordance with the California Environmental Quality Act ("**CEQA**"). However approval of this Agreement is exempt from the requirements of CEQA pursuant to State CEQA Guidelines § 15061(b)(3) because CEQA applies only to projects that have the potential to cause a significant effect on the environment and it can be seen with certainty that there is no possibility that approval of this Agreement may have a significant effect on the environment. As set forth herein, this Agreement only provides for a period of exclusive negotiations between County and Developer related to the conveyance and development of the Site, and any and all discretionary approvals required for development of the Site will be issued by the City of Santa Rosa, subject to the prior evaluation of the environmental impacts of the development in accordance with CEQA.

NOW THEREFORE, County and Developer hereby agree as follows:

A G R E E M E N T S :

1. Negotiations.

1.1 Good Faith Negotiations. County and Developer, acknowledging that time is of the essence, agree for the Negotiation Period set forth below to negotiate diligently and in good faith to prepare a DDA (defined in Recital C, above) to be considered for approval by County and Developer, in the manner set forth herein, with respect to the conveyance and development of the Site (defined in Recital A, above). During the Negotiation Period County agrees not to negotiate with any other person or entity regarding the sale or development of the Site or any portion thereof. A DDA resulting from the negotiations hereunder shall become effective only if and after a DDA has been considered and approved by the Developer and the Board at a public hearing called for such purpose in accordance with California Government Code §25515.2(b). If a DDA is executed by County and Developer, the DDA shall thereafter govern the rights and obligations of the Parties with respect to development of the Site.

1.2 Duration of this Agreement. This Agreement shall become effective upon execution by the Parties and shall remain in effect until June 30, 2017 ("**Negotiation Period**"). Upon expiration of the Negotiation Period, this Agreement shall automatically terminate, unless the Negotiation Period has been mutually extended by County and Developer as provided below. The County Administrator may approve an extension of the Negotiation Period for up to an additional ninety (90) calendar days, if she (he) determines in her (his) sole discretion that Developer has made substantial progress towards agreement on the terms of a DDA with the County. Any further extension of the Negotiation Period shall require the approval of the Board, which may be granted or denied in its sole discretion. If the County has not approved and executed the DDA prior to expiration of the Negotiation Period or any extension thereof, then this Agreement shall automatically terminate.

1.3 Exclusive Negotiation Fee. In consideration of County's agreement to forego other development opportunities that may have resulted from the RFP process, and to grant Developer the exclusive right to negotiate with County the terms of a proposed DDA, Developer shall submit to County, within three (3) business days following the Date of Agreement, cash or other immediately available funds in the amount of FIFTY THOUSAND DOLLARS (\$50,000) ("**Non-Refundable Fee**"). Developer agrees that payment of the Non-Refundable Fee is a reasonable payment and estimate of the opportunity cost to County of foregoing other development opportunities and entering into exclusive negotiations with Developer. Accordingly, the Non-Refundable Fee shall in all events belong to and be retained by County, regardless of whether (a) Developer and County reach agreement on the terms of the proposed DDA; (b) a DDA is ever approved and executed by County and Developer; or (c) the developable portions of the Site are ever conveyed to Developer for development purposes.

1.4 Term Sheet. Solely to facilitate the orderly preparation, drafting and negotiation of a DDA, and not as a limitation on either Party to raise issues of concern for discussion and negotiation during the Negotiation Period, County and Developer have prepared a preliminary list of non-binding business terms to be further developed and negotiated as part of the proposed DDA ("**Term Sheet**"), as set forth in Exhibit B attached hereto. Nothing herein shall preclude either Party at any time during the Negotiation Period from expanding upon one or more of the general terms outlined in the Term Sheet, or adding additional terms for negotiation and inclusion in a proposed DDA, however with respect to those business terms set forth in the Term Sheet, the Parties agree that the negotiations hereunder shall be conducted in a manner that is substantially consistent with such Term Sheet terms.

1.5 Costs of Negotiations. Except as otherwise expressly provided in Section 1.3 above, each party shall bear its own costs incurred in connection with the negotiation and drafting of the proposed DDA.

2. County Objectives and Development Program. As set forth in detail in Exhibit 1 to the RFP, the County identified four primary objectives to be achieved through development of the Site. First, a plan must be developed that supports the smooth transition and consolidation of the County's and its non-profit partners' operations in their relocation from facilities and service delivery on the Site, including the retention of existing operations of the Coroner and Public Health Lab. The plan must address the demolition of dilapidated structures, remediation of hazardous materials contamination, and assure that new development is compatible with the retention of existing open space and a historic cemetery. Second, a comprehensive master plan must be developed for the Site to ensure the Site is holistically developed in a coordinated and collaborative manner so as to avoid piecemeal development and achieve the County's development vision and development and planning objectives for the Site. The comprehensive master plan must be developed collaboratively with the community and service providers and provide for development that is compatible with and complementary to the surrounding neighborhoods while mitigating potential environmental impacts. Third, development of the Site to its highest and best use, including the provision of a minimum of 20% of the housing as affordable, must achieve a fair market, financial return for the County and Developer. Finally, development and construction of the Site should be expedited to the extent possible in order to fulfill the urgent need for different housing types at varied levels of affordability ("**County Objectives**").

The negotiations hereunder shall be based on achieving the County Objectives and the Developer's proposed Development Program submitted on May 5, 2016 in response to the RFP ("**Development Program**"), and generally depicted in the plan attached hereto as Exhibit C. The Developer's proposed Development Program includes the following uses: 800 housing units (160 of which shall be affordable to very low income households and 160 of which shall be restricted to seniors); 50 very low income veterans housing units; 3 recreation facilities; 2 cultural monuments; 33,000 square feet of commercial facilities; 2 miles of biking/hiking trails; 68 acres of open space and preservation of heritage oak trees. The Parties recognize that the City of Santa Rosa is anticipated to retain land use entitlement authority over the proposed Project and that conditions of development imposed by City in connection with such land use approvals, as well as fluctuating market conditions, may warrant adjustments to one or more aspects of the anticipated Development Program.

3. Developer's Responsibilities.

3.1 Full Disclosure of Developer Parties. Developer is required to make full disclosure to County of its principals; officers; major stockholders, partners or members; joint venturers; and its directly involved negotiators, development managers, consultants and managerial employees (individually "**Developer Party**" and collectively "**Developer Parties**"), and all other material information concerning Developer. As set forth in Developer's response to the RFP, Developer is owned and managed by William P. Gallaher; Komron

Shahhosseini is a partner of Developer and will serve as Project Manager; Kleinfelder will provide geotechnical services; Brelje & Race Consulting Engineers will provide civil engineering services; First Carbon Solutions will provide environmental investigative services; Landesign Group will provide site planning and design services; OSL Construction LLC will act as the general contractor for Developer; Oakmont Senior Living will undertake development of senior housing; and BRIDGE Housing and Burbank Housing will undertake development of veterans' housing.

The qualifications and identity of Developer and the Developer Parties are of particular concern to County. It is because of those unique qualifications and identity that County has entered into this Agreement with Developer. In the event of any proposed change in the identity of the Developer Parties, Developer shall provide County no less than ten (10) calendar days' prior written notice of the Developer Party who will no longer be involved in the Project and the identity of the individual or entity proposed to replace the Developer Party. Any such change in the identity of a Developer Party shall be subject to the approval of the County Administrator, not to be unreasonably withheld. However, any change in the control of Developer may be withheld in the County Administrator's sole discretion. As used in the immediately preceding sentence "**Control**" shall mean the power to direct the day-to-day management of Developer and it shall be a presumption that control with respect to a limited liability company is the right to exercise, directly or indirectly, more than 50% of the voting rights attributable to the limited liability company. Notwithstanding the foregoing, nothing herein shall be interpreted to conflict with or supersede the provisions of Section 20 below which prohibits assignment of this Agreement.

3.2 Methods of Financing. Throughout the Negotiation Period Developer shall make and maintain full disclosure to County of its proposed methods of financing to be used in the acquisition of the Site and development of the Project.

4. Cooperation and Coordination Responsibilities. Attached hereto as Exhibit D is a list of reference documents relating to the Site which have been made available to the Developer by County. During the Negotiation Period the County shall continue to cooperate with Developer by providing information within the County's possession regarding the physical and environmental condition and development potential of the Site as it becomes available. In accordance with Section 5 of this Agreement, Developer will be provided access to the Site in order to undertake activities to evaluate the physical and environmental condition and development potential of the Site and Developer shall provide all such information to County as it becomes available.

5. Access to Site. County and Developer shall cooperate to enable representatives of Developer to obtain the right of access to all portions of the Site for the purpose of obtaining data and making surveys and tests necessary to evaluate the development potential of the Site, including the investigation of the

soils and environmental condition of the Site and the buildings thereon. All costs, fees and expenses of investigating the physical and environmental condition of the Site and the buildings thereon, including a Phase 1, Phase 2, geotechnical and soils investigations, if any, shall be paid by Developer. Any and all data, tests, information, reports, surveys, and studies generated as a result of Developer's investigation activities shall be provided to County at the same time such materials become available to Developer and shall become the property of County. Within thirty (30) calendar days of the Date of Agreement, County and Developer shall execute one or more right of entry agreements satisfactory to County's legal counsel providing Developer access to the Site in order to commence such studies or work.

6. Defaults and Remedies.

6.1 Default. Failure by either Party to negotiate in good faith as provided in this Agreement shall constitute an event of default hereunder. Except as otherwise set forth in Section 7 below with respect to County's immediate right to terminate, the non-defaulting Party shall give written notice of default to the defaulting Party, specifying the nature of the default and the required action to cure the default. If such default remains uncured ten (10) days after receipt by the defaulting Party of such notice, the non-defaulting Party may exercise the remedies set forth in Section 0 or 6.3 below, as applicable.

Developer hereby acknowledges that while County is entering into this Agreement in its proprietary capacity as owner of fee title to the Site, County nevertheless retains full and complete discretion in its regulatory capacity as to whether to approve the disposition and development of the Site. Accordingly, as provided in Section 13 below, any action taken by the County in the exercise of its discretion relating to the DDA after a public hearing thereon, shall not constitute a default or a breach of the terms of this Agreement by County.

6.2 Exclusive Remedies for County Default. In the event of an uncured default by County, Developer's sole and exclusive remedy shall be to terminate this Agreement and to seek recovery of liquidated damages as provided below:

LIQUIDATED DAMAGES. THE PARTIES HAVE AGREED THAT DEVELOPER'S ACTUAL DAMAGES, IN THE EVENT OF A MATERIAL BREACH BY COUNTY OF ITS OBLIGATIONS UNDER THIS AGREEMENT WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, THE SUM OF TWENTY FIVE THOUSAND DOLLARS (\$25,000) IS A REASONABLE ESTIMATE OF THE DAMAGES THAT DEVELOPER WOULD INCUR IN SUCH EVENT. BY PLACING THE INITIALS OF THE AGENT EXECUTING THIS AGREEMENT ON ITS BEHALF BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY

COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: DEVELOPER 

COUNTY 

6.3 Exclusive Remedies for Developer Default. In the event of an uncured default by Developer, County's sole and exclusive remedies shall be: (a) to seek specific performance or other equitable relief and/or to recover actual damages if the default is a result of Developer's failure to meet its indemnity obligations set forth herein, or (b) for any other Developer default, to terminate this Agreement.

6.4 Limitation on Damages. Except as otherwise provided in Section 6.3 above, neither Party shall have any liability to the other for actual damages for any default. Further, each Party specifically waives and releases any rights or claims it may have at law or in equity to recover consequential, special or punitive damages from the defaulting Party.

7. Lobbying Prohibition. Developer agrees and acknowledges that the DDA negotiations shall take place with the County Administrator, General Services Department Director, the County's legal, financial and planning advisers and such other County parties as may be designated by the County Administrator from time to time (collectively, the "**County-Designated Team**"). Developer shall not engage in discussions, negotiations or lobbying of any member of the Board of Supervisors or other County employees or officials as may be designated by the County Administrator from time to time (collectively, "**Excluded County Parties**"), unless requested to do so by the County-Designated Team for specific purposes related to the negotiations. Nothing in this Section 7 shall prevent: (a) responses to requests for information from one or more Excluded County Parties, provided such responses are directed to the County-Designated Team; (b) Developer's participation in any question-and-answer sessions, workshops, or tours approved in writing by the County-Designated Team; or (c) Developer's participation in public events or community fora at which one or more Excluded County Parties are present, provided Developer does not engage in communications with such Excluded County Parties at such events that are intended to influence the DDA negotiations. In the event of Developer's violation of its obligations under this Section 7, County may immediately terminate this Agreement by written notice to Developer without affording Developer any opportunity to cure such violation.

8. Ballot and Legislative Measures. Developer expressly agrees and acknowledges that it shall not initiate, promote, support or pursue, or authorize any other person or party to initiate, promote, support or pursue, any ballot or legislative measure relating to the Project without the prior consent of the County as evidenced by Board of Supervisors' resolution.

9. Rights Following Expiration or Termination. Except as otherwise expressly provided herein, following expiration or termination of this Agreement neither Party shall have any further rights against or liability to the other under this Agreement. Following expiration or termination of this Agreement, unless a DDA is signed by Developer, approved by the Board, and executed by the County Administrator, County shall have the absolute right to pursue disposition and development of the Site in any manner and with any party or parties it deems appropriate.

10. Confidentiality of Information. Any information provided by Developer to County, including pro formas and other financial projections (whether in written, graphic, electronic or any other form) that is clearly marked as "CONFIDENTIAL / PROPRIETARY INFORMATION" ("**Confidential Information**") shall be subject to the provisions of this Section 10. Subject to the terms of this Section, County shall use good faith diligent efforts to prevent disclosure of the Confidential Information to any third parties, except as may be required by the California Public Records Act (Government Code Section 6253 *et seq.*) or other applicable local, state or federal disclosure law (collectively, "**Public Disclosure Laws**"). Notwithstanding the preceding sentence, County may disclose Confidential Information to its officials, employees, agents, attorneys and advisors, but only to the extent necessary to carry out the purpose for which the Confidential Information was disclosed. Developer acknowledges that County has not made any representations or warranties that any Confidential Information County receives from Developer will be exempt from disclosure under any Public Disclosure Laws. In the event the County's legal counsel determines that the release of the Confidential Information is required by Public Disclosure Laws, or order of a court of competent jurisdiction, County shall notify Developer of County's intention to release the Confidential Information. If the County Counsel, in his or her discretion, determines that only a portion of the requested Confidential Information is exempt from disclosure under the Public Disclosure Laws, County may redact, delete or otherwise segregate the Confidential Information that will not be released from the non-exempt portion to be released.

If any litigation is filed seeking to make public any Confidential Information, County and Developer shall cooperate in defending the litigation, and Developer shall pay County's reasonable costs of defending such litigation and shall indemnify County against all costs and attorneys' fees awarded to the plaintiff in any such litigation. Alternatively, Developer may elect to disclose the Confidential Information rather than defend the litigation. Developer's indemnity obligations under this Section 10 shall survive the expiration or termination of this Agreement.

The restrictions set forth herein shall not apply to Confidential Information to the extent such Confidential Information: (a) is now, or hereafter becomes, through no act or failure to act on the part of County, generally known or available; (b) is known by the County at the time of receiving such information as evidenced by County's public records; (c) is hereafter furnished to County by a

third party, as a matter of right and without restriction on disclosure; (d) is independently developed by County without any breach of this Agreement and without any use of or access to Developer's Confidential Information as evidenced by County's records; (e) is not clearly marked "CONFIDENTIAL/PROPRIETARY INFORMATION" as provided above (except where Developer notifies County in writing, prior to any disclosure of the Confidential Information, that omission of the "CONFIDENTIAL/PROPRIETARY INFORMATION" mark was inadvertent), or (f) is the subject of a written permission to disclose provided by Developer to County.

11. Real Estate Commissions. County shall not be liable for any real estate commission or brokerage fees which may arise from the purchase and sale or other acquisition of the Site or any portion thereof or interest therein. Developer represents and warrants to County that it has not engaged any broker, agent or finder in connection with the acquisition or development of the Site, and Developer agrees to indemnify, defend and hold County harmless from any claim by any broker, agent or finder retained by, or alleged to have been retained by, Developer. Developer's indemnity obligations under this Section 11 shall survive the expiration or termination of this Agreement.

12. Notices. Any approval, disapproval, demand or other notice which either Party may desire to give to the other Party under this Agreement must be in writing and may be given by any commercially acceptable means, including first class mail, personal delivery, or overnight courier, to the Party to whom the notice is directed at the address of the Party as set forth below, or at any other address as that Party may later designate by notice.

To County: County of Sonoma
General Services Department
2300 County Center Drive, Suite A200
Santa Rosa, CA 95403
Attention: Caroline Judy, Director
Telephone: (707) 565-8058
Email: Caroline.Judy@sonoma-county.org

with copies to: County of Sonoma
Office of the County Counsel
575 Administration Drive, Room 105A
Santa Rosa, CA 95403
Attention: Robert Pittman, Chief Deputy
County Counsel
Telephone: (707) 565-3310
Email: Robert.Pittman@sonoma-county.org

and

Burke, Williams & Sorensen LLP
1901 Harrison Street, 9th Floor
Oakland, CA 94612
Attention: Jerry Ramiza/Michael Biddle
Telephone: (510) 273-8780
Email: JRamiza@bwslaw.com;
MBiddle@bwslaw.com.

To Developer:

Chanate Community Development
Partners LLC
9240 Old Redwood Hwy, Suite 200
Windsor, CA 95492
Attention: Komron Shahhosseini, Project
Manager
Telephone: (707) 535-3235
Email: komron@oakmontsl.com

with a copy to:

[Name]
[Address]

Any notice shall be deemed received on the date of delivery if delivered by personal service, three (3) business days after mailing if sent by first class mail, on the date of delivery or refused delivery as shown by the records of the overnight courier if sent via overnight courier, or one (1) business day after delivery via email if said notice is also sent by first class mail.

13. Limitations of this Agreement. This Agreement (and any extension of the Negotiating Period) shall not obligate either County or Developer to enter into a DDA on or containing any particular terms. By execution of this Agreement (and any extension of the Negotiating Period), County is not committing itself to, or agreeing to, undertake (a) acquisition of land, (b) disposition of the Site or any portion thereof, or (c) any other act or activity requiring the subsequent independent exercise of discretion by the County, and Developer is not committing itself to acquire the Site or any portion thereof. Execution of this Agreement by County and Developer is merely an agreement to conduct a period of exclusive negotiations in accordance with the terms hereof, reserving for subsequent County action the final discretion and approval regarding the execution of a DDA and all proceedings and decisions in connection therewith. Any DDA resulting from negotiations pursuant to this Agreement shall become effective only if and after such DDA has been considered and approved by the Board, following conduct of all legally required procedures, and executed by duly authorized representatives of County and Developer. Until and unless a DDA is signed by Developer, approved by the Board, and executed by the County Administrator, no agreement drafts, actions, deliverables or communications arising from the performance of this Agreement shall impose any legally binding obligation on either Party to enter into or support entering into a DDA or be used as evidence of any oral or implied agreement by either Party to enter into any

other legally binding agreement. Failure of the Board to approve a DDA after a public hearing thereon shall not constitute a default or a breach of the terms of this Agreement by County.

14. Indemnification. Developer shall indemnify, defend (with counsel reasonably acceptable to County), protect and hold County, and its officers, officials, employees, contractors, agents and representatives, harmless from, all third-party claims, demands, damages, defense costs or liability of any kind or nature (collectively, "**Claims**") arising directly or indirectly from the approval or implementation of this Agreement, and/or Developer's Site investigation or acquisition activities, including damages to property or injuries to persons, accidental death, and reasonable attorneys' fees and costs, whether such activities or performance thereof be by Developer or by anyone directly or indirectly employed or contracted with by Developer and whether such damage shall be discovered before or after expiration or termination of this Agreement. Developer's indemnity obligations under this Section shall not extend to claims for property damage, bodily injury or death to the extent occasioned by the active negligence or willful misconduct of County, or its officers, officials, employees, contractors, agents or representatives. Developer's indemnity obligations under this Section 14 shall survive expiration or termination of this Agreement.

15. Plans, Drawings, Studies and Reports. Developer shall provide County with full and complete copies of all investigation reports and studies within Developer's possession or direct control, including boring logs, sample or laboratory test results, traffic counts, utility studies or other technical data produced by Developer or its contractors or subcontractors in connection with Developer's due diligence and pre-development investigative activities (collectively, "**Work Product**") within ten (10) days following Developer's receipt thereof. Notwithstanding the foregoing, Developer or Developer's architect shall retain ownership of all Project development design concepts, together with any and all site plan ideas and drawings submitted in connection with the negotiations hereunder ("**Design Documents**"), and County shall have no right to use such Design Documents for any purpose without providing compensation to Developer or Developer's architect.

16. Integration. This Agreement contains the entire understanding between the Parties relating to the matters set forth herein. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect.

17. Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each Party.

18. Severability. If any term, provision, condition or covenant of this Agreement or its application to any Party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the

application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

19. Applicable Law; Venue. This Agreement shall be construed in accordance with the law of the State of California without reference to choice of laws principles, and venue for any action under this Agreement shall be in Sonoma County, California.

20. No Assignment. The qualifications and identity of Developer and the Developer Parties are of particular concern to County. It is because of those unique qualifications and identity that County has entered into this Agreement with Developer. Accordingly, Developer may not assign its right to negotiate with County to any other person or entity. Any purported voluntary or involuntary assignment of Developer's negotiation rights shall be null and void.

21. Waiver of *Lis Pendens*. It is expressly understood and agreed by the Parties that no *lis pendens* shall be filed against the Site or any portion thereof with respect to this Agreement or any dispute or act arising from this Agreement.

22. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by both Parties, shall constitute a binding agreement.

23. Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both Parties. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or any of its terms.

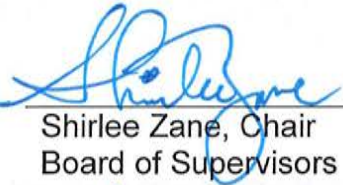
24. Joint and Several. If Developer consists of more than one entity or person, the obligations of Developer hereunder shall be joint and several.

25. Authority. Developer is a limited liability company and each person executing this Agreement on behalf of Developer does hereby covenant and warrant that (a) Developer is duly established or formed and validly existing under the laws of its state of establishment or formation; (b) Developer has and is duly qualified to do business in California; (c) Developer has full corporate, partnership, trust, association or other power and authority to enter into this Agreement and to perform all of Developer's obligations hereunder; and (d) each person (and all of the persons if more than one signs) signing this Agreement on behalf of Developer is duly and validly authorized to do so.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set opposite their signatures. The Date of Agreement shall be the date this Agreement is signed by County.

COUNTY:

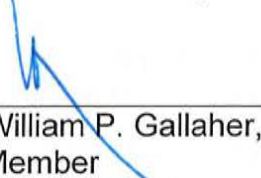
COUNTY OF SONOMA, a political subdivision of the State of California

By: 
Shirlee Zane, Chair
Board of Supervisors

Date: Feb. 14, 2017

DEVELOPER:


CHANATE COMMUNITY DEVELOPMENT PARTNERS, LLC, a California limited liability company

By: 
William P. Gallaher, Managing Member

Date: Feb. 27, 2017

APPROVED AS TO FORM:

By: 
Robert Pittman, Chief Deputy *Assistant*
County Counsel

ATTEST: 

By: 
[Name], County Clerk

EXHIBIT A SITE

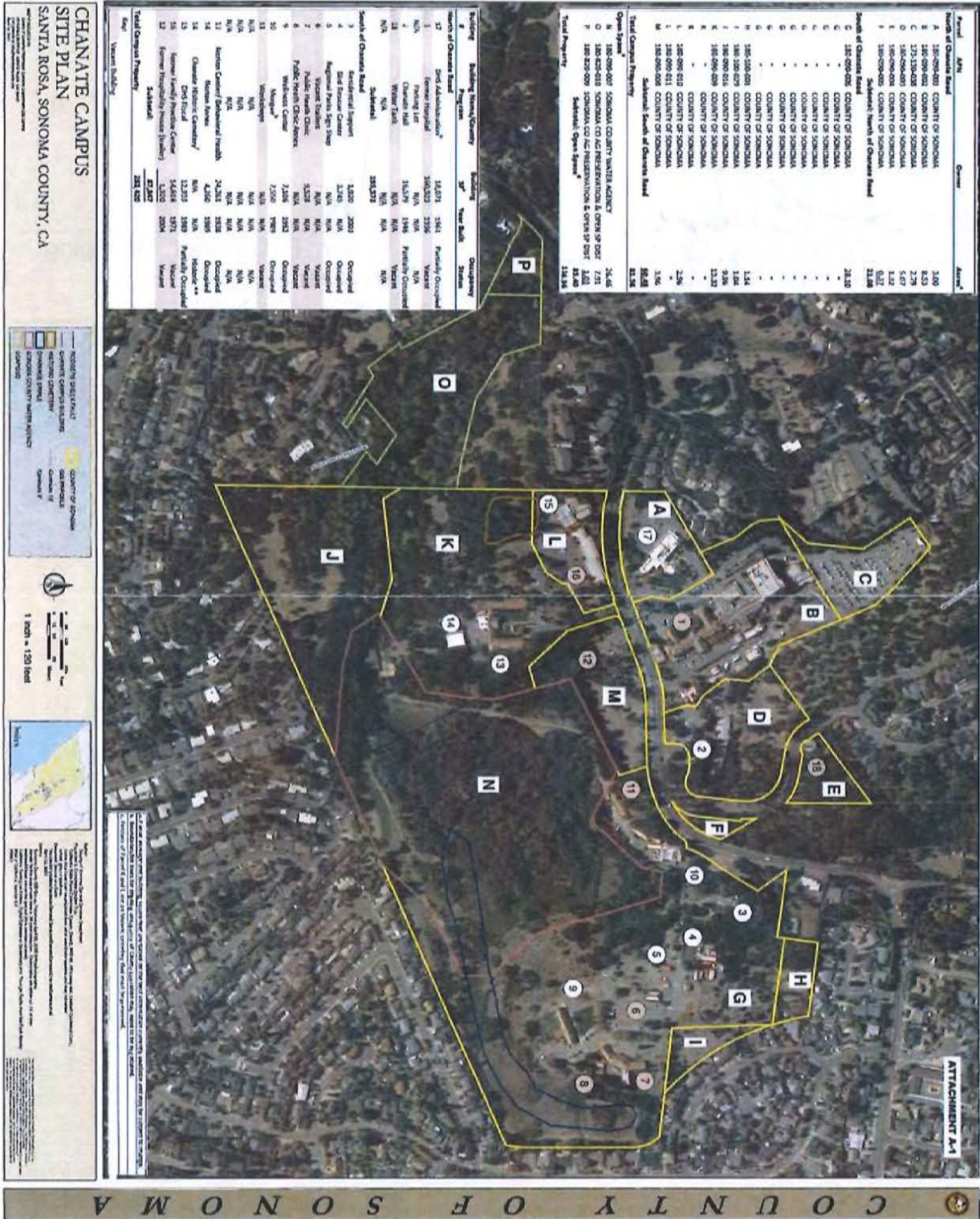


EXHIBIT B
TERM SHEET

1. Project.

- A new mixed-use community providing housing to serve the diverse needs of the community; a village center with neighborhood retail, services, arts and cultural opportunities; and extensive open space areas, while retaining existing facilities for the Coroner and Public Health Lab
- 20% of all housing units developed on the Site, including senior units, shall be affordable to very low income households (50% of AMI); 160 units shall be restricted to seniors; and 50 units, all of which shall be affordable to very low income, shall be restricted to Veterans.
- Services tailored to the needs of seniors and veterans shall be integrated into the design of the senior and veterans housing developments.
- Project would include first class architecture and design, and best practices in sustainable design and operations.
- Project would include demolition of all existing buildings on the Site; provided, however, the first floor façade/entrance of County-hospital building would be retained and integrated into a new residential building to be constructed as part of the Project if architecturally and structurally feasible.

2. Transaction.

- Developer would acquire a fee simple interest in the Site.
- Performance criteria, as well as provisions for default and remedies, would be set forth in the DDA.

3. County Role in Entitlement Process.

- In recognition of the housing crisis that currently exists in Santa Rosa and greater Sonoma County, County will use good faith diligent efforts to facilitate City of Santa Rosa's issuance of all land use entitlements and approvals, including re-zoning, required to develop the Project on the Site.

Reasonable out of pocket costs incurred by County in connection with such efforts shall be borne by Developer upon Developer's approval of such costs, which approval shall not be unreasonably withheld. If Developer is unable to obtain City approval of a Project that includes at least 650 units (not including veterans housing), County shall consider alternative methods of entitling the Property for development, including, potentially, a County led entitlement process.

4. **Site Condition.**

- The Site would be conveyed to Developer AS-IS, WITH ALL FAULTS. County would have no responsibility for paying any costs related to Site investigations, Site preparation, Site remediation, enhancement or improvement of the open space land or any other component of Project development.

5. **Purchase Price.**

- Purchase Price would be equal to the Site's "unentitled" land value which the Parties agree is currently the sum of \$6 Million, plus, assuming a Project with more than 400 residential units (not including veterans housing) is ultimately entitled, a proportionate share of the increase in the value of the Site after such entitlements have been obtained and consideration of below market rent for existing County functions. The proportionate share of the increase in value to be paid to County shall be calculated as follows: For each residential unit in excess of 400 (not including veterans housing), the Purchase Price shall be increased by \$16,250 for a maximum purchase price of \$12,500,000. In addition to the foregoing cash payments, Developer would lease the Morgue and Public Health Lab buildings back to the County for five (5) years at a base rent of \$1 per year. The net present value of the five years of free rent is approximately \$1.6 Million, calculated at a discount rate of 2.5% and assuming a fair market value annual rent of \$1.20/sf (i.e. annual free rent value of \$260,222 for the DHS Lab and \$108,720 for the Morgue). At the end of the 5 year initial lease term, County would have the option of extending the lease term for up to 10 additional years at discounted per sf

rent equal to 80% of the then current fmV rent . By way of example, assuming the then current fmV rent is \$1.20/s.f., the rent charged would be \$0.96/sf (80% of \$1.20) and the total nominal amount of the discounted rent over the 10 year period would be approximately \$737,880.

6. **Deposit.**

- Developer would pay County a Deposit in the amount of \$2.5 Million within 10 days following the effective date of the DDA. The Deposit would be immediately disbursed to County rather than being held in escrow until closing. County recognizes and acknowledges that this Deposit is unusual and is intended as an additional incentive for the County to enter into the DDA.
- Upon receipt, the County could use the Deposit for any purpose that is in furtherance of the Project, as reasonably determined by County, including paying expenses of master planning County's government building complex, funding a portion of the costs of preparing the CEQA document for the Project, negotiating and drafting of agreements with City of Santa Rosa related to the Project.
- The Deposit would be applied towards the Purchase Price at closing. If escrow were to fail to close for any reason other than a default by Developer, including as a result of a default by County, County would repay the Deposit, plus interest at WSJ prime rate (currently 3.75%) from the date of disbursement, to Developer by no later than 2nd anniversary of the date of DDA termination. If the Developer defaults, the Developer will be entitled to a refund of \$2 Million of the Deposit under the same conditions, with the remaining \$500,000 retained by the County as liquidated damages.

7. **Closing Conditions/Outside Date.**

- Close of escrow would be conditioned upon satisfaction or waiver by the benefitted Party of various conditions precedent to closing to be

negotiated and set forth in the DDA. The Outside Date for closing would be 3 years after the effective date of the DDA.

8. Phasing of Public Improvements.

- Developer would commit to substantially complete all public amenities and benefits as reflected in the Project entitlements, including all trails, amphitheater (if applicable), public parks/plazas, and neighborhood serving retail on or before the date on which City has issued certificates of occupancy for 50% of the total number of residential units.

9. County Review of Design.

Basic Concept Drawings (preliminary site plan and illustrative elevations) for the Project which shall be consistent with Developer's proposal would be attached as an exhibit to the DDA or, if not completed at the time of DDA approval, would be submitted by Developer to County within 3 months of the DDA effective date. County would have the right to review the Basic Concept Drawings for consistency with County's Chanate Campus Development Vision and Objectives as outlined in Exhibit 1 of the County's Request for Proposals dated February 3, 2016, and to ensure first class architecture, and best practices in sustainable design and operations. Following such review County would approve or disapprove the Basic Concept Drawings in its sole discretion. Once Basic Concept Drawings have been approved by County, Developer would prepare and submit to City for review and approval complete applications, including plans and drawings, for all discretionary land use entitlements required to develop the Project on the Site. All plans, drawings and applications submitted to City shall be substantially consistent with the Basic Concept Drawings previously approved by County.

10. Affordability Covenants.

- The affordability covenants to be recorded against the parcels on which affordable units will be located would have priority over all liens and mortgages, including the liens of any deed of trust or mortgage securing repayment of any loan or other financing obtained by Developer in connection with development or construction of the Project.

11. Limitation on Remedies.

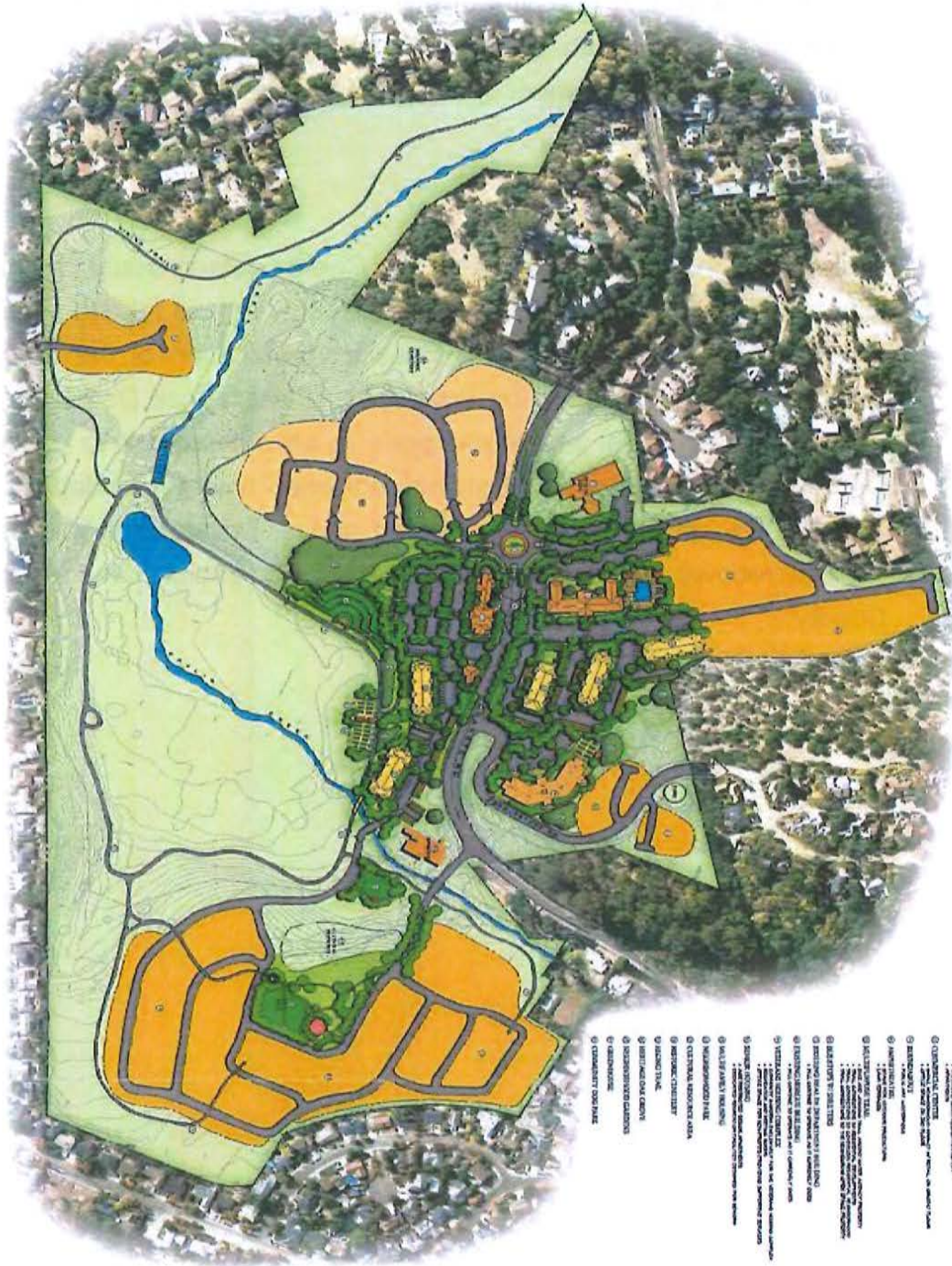
- Developer's remedies in the event of a County default would be limited to injunctive relief, except in the event of a County default related to failure to repay the Deposit to Developer following termination of the DDA for a reason other than a default by Developer, in which case Developer would be entitled to recover actual damages in an amount not to exceed the Deposit or portion thereof which has not been timely refunded/repaid by County. Except as expressly provided above, Developer would have no right to recover any actual, consequential or special damages against County.

EXHIBIT C DEPICTION OF DEVELOPMENT PROGRAM

LANDSCAPE GROUP
3040 GAVINSON DRIVE N. SEASIDE, CA

MAY 2002

THE RAVINE AT CHANNATE
CHANNATE COMMUNITY DEVELOPMENT PARTNERS
3040 GAVINSON DRIVE N. SEASIDE, CA 95578



- CHANNATE SITE PLAN - FEATURES KEY**
- ① MULTIFAMILY RESIDENTIAL
 - ① 100-UNIT APARTMENT BUILDING
 - ① 100-UNIT APARTMENT BUILDING
 - ① 100-UNIT APARTMENT BUILDING
 - ① 100-UNIT APARTMENT BUILDING
 - ② COMMERCIAL CENTER
 - ② 100,000 SQ. FT. COMMERCIAL CENTER
 - ② 100,000 SQ. FT. COMMERCIAL CENTER
 - ③ PARKING
 - ③ 100-UNIT APARTMENT BUILDING
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EXHIBIT D

REFERENCE DOCUMENTS

Chanate RFP Bibliography: List of Documents & Reports

All documents are available on the Chanate RFP Website

Attachments to the RFP

Attachments A:

1. Campus Map
2. Property Information Summary
3. List of Current Tenants/Lease Status
4. Seismic Evaluation - Phase 2 Report by ZFA
5. Cultural Resources Survey
6. Conceptual Development Opportunity Areas

Attachment B: Procurement Forms

Attachment C: Developer Forms

- Part I – Prospective Qualified Development Team
- Part II – Prospective Qualified Development Team Members
- Part III – Information About the Development Team
- Part IV – Confidential Financial Information
- Part V – Affidavit of Authenticity Form
- Part VI – Organizational Conflicts of Interest
- Part VII – Acknowledgment of Addendum Form
- Part VIII – Non-Collusion Affidavit

Purchasing Portal:

http://sonomacounty.ca.gov/_templates_portal/Page.aspx?id=2147508598

Community Outreach Meeting information

<http://sonomacounty.ca.gov/General-Services/Facilities-Development-and-Management/Chanate-Complex/>

Available through the FDM Website:

<http://sonomacounty.ca.gov/General-Services/Facilities-Development-and-Management/Chanate-Complex/>

- Phase 1 Environmental Site Assessment Report: Chanate Hospital Complex
- Environmentally-Regulated Materials Survey Report: Chanate Hospital Complex
- Geologic Fault Hazard Summary
- Appraisal Report
- Utility Credits

