

LOCATION: PER CA EXECUTIVE ORDER N-25-20, THIS MEETING WILL BE HELD BY TELECONFERENCE. PUBLIC MAY PARTICIPATE WITH THE SAME LINKS:

Join Zoom Meeting:

<https://zoom.us/j/98057177103?pwd=TXljeW5UMVMMyTS8rcS81Y0hiUjNOUT09>

Meeting ID: 980 5717 7103

Passcode: 975423

Dial in by phone: 669-900-9128

LOCATION: Via teleconference

TIME: 12:00 P.M.

12:00 PM	REGULAR MEETING	487 Leff Street
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CALL TO ORDER: Chairman Jay Beck

ROLL CALL: Commissioners Beck, Boyer, Crotser, Gillett, Odenthal, Souza, Steinberg

PUBLIC COMMENT PERIOD FOR ITEMS NOT ON THE AGENDA (not to exceed 15 minutes total)
 The Board welcomes your input. You may address the Board by completing a speaker slip and giving it to the staff clerk prior to the meeting. At this time, you may address the Board on items that are not on the agenda. Time limit is three minutes. State law does not allow the Board to discuss or take action on issues not on the agenda, except that members of the Board or staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights (Gov. Code Sec. 54954.2). Staff may be asked to follow up on such items.

EXECUTIVE DIRECTOR REPORT
 The Executive Director’s report is intended to brief the Commission on items, issues, key dates, etc., that do not require specific action, and are not “agendized” as separate items on the HASLO Commission Agenda.

CONSENT AGENDA
 A member of the public or a Commissioner may request the Board to pull an item for discussion, clarification, and/or separate action. Pulled items shall be heard at the close of the Consent Agenda unless a majority of the Board chooses another time. The public may comment on any and all items on the Consent Agenda within the three-minute time limit.
 All items on the Consent Agenda are adopted by one motion.
RECOMMENDED ACTION: Approve Consent Agenda Items as Presented

- C1. **MINUTES OF THE BOARD OF COMMISSIONERS REGULAR MEETING OF JULY 22, 2021**
 Approve the Minutes of the Regular Board of Commissioners Meeting of July 22, 2021.
- C2. **HASLO MONTHLY DISBURSEMENT REGISTER** (available for review at the meeting)
- C3. **HOUSING CHOICE VOUCHER (SECTION 8)**
- C4. **PROPERTY MANAGEMENT REPORTS**
- C5. **FAMILY SELF-SUFFICIENCY & RESIDENT SERVICES PROGRAM REPORT**
- C6. **CONSTRUCTION & DEVELOPMENT REPORT**

DISCUSSION ITEM:**GROVER BEACH PROJECT UPDATE**

The Grover Beach project consists of approximately 53 housing units (52 affordable, 1 manager). The project has been presented to the HASLO commission at several previous meetings. Staff will present an update that includes concept building plans and financial feasibility. The “next step” in the process is consideration of a Development and Disposition Agreement (DDA) between the City, HASLO, San Luis Obispo Non-Profit Housing Corporation (SLONP) and Peoples’ Self-Help Housing Corporation (PSHHC). The DDA describes the terms and conditions under which the City is willing to transfer the land to HASLO, and allow its development by a limited partnership consisting of SLONOP and PSHHC. A draft DDA is in progress, and a “redline” is attached for your review. All parties had hoped that the DDA could be approved in the month of August. However, there is at least one outstanding issue that needs resolution, so HASLO staff do not recommend approval at this time. The primary issue at this writing is “reversion” language in the event the developers are unable to perform. It is possible that this issue will be resolved prior to the August 19 HASLO commission meeting. However, it is likely that this item will need to come back to the commission at a special meeting or the September meeting. City is represented by David Hale. HASLO and SLONP are represented by Gubb & Barshay.

CLOSED SESSION**1. Closed session, pursuant to section 54956.95****LIABILITY CLAIMS**

Claimant: Moylan Terrace Homeowners Association
 Agency claimed against: Moylan Terrace, LLC, and J.W. Design & Construction, Inc.

2. Closed session, pursuant to section 54956.8**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Property: APN 002-431-007
 Agency Negotiators: Scott Smith, Executive Director
 Ken Litzinger, Director of Finance
 Negotiating Parties: The Housing Authority of the City of San Luis Obispo (HASLO)
 955 Partnership (not present)
 Under Negotiation: Update: The Negotiators’ authority regarding the price and terms.

ADJOURNMENT

The next Regular Meeting will be held on September 16, 2021, at 12:00 p.m. virtually.

REQUIREMENTS OF THE BROWN ACT HAVE BEEN SATISFIED AS THIS NOTICE WAS POSTED AT 11:30 A.M. ON AUGUST 13, 2021, PRIOR TO THE 72-HOUR NOTICING REQUIREMENT.



HASLO wishes to make all of its public meetings accessible to the public. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the Executive Director’s Assistant at (805) 594-5321 at least 48 hours before the meeting, if possible.

MINUTES

HOUSING AUTHORITY OF THE CITY OF SAN LUIS OBISPO

July 22, 2021

CALL TO ORDER

The Regular Meeting of the Housing Authority of the City of San Luis Obispo was called to order on Thursday, June 22, at 12:04 p.m. by Chair Jay C. Beck. Per CA Executive Order N-25-20, the meeting was authorized to be held via teleconferencing and was made accessible to the public telephonically.

ROLL CALL

PRESENT: Commissioners Beck, Boyer, Crotser, Gillett, Steinberg

ABSENT: Commissioners Odenthal, Souza

STAFF: Scott Smith, Ken Litzinger, Elaine Archer, Sandra Bourbon, Michael Burke, Michelle Pedigo, and Vicky Culman

PUBLIC COMMENT:

None.

EXECUTIVE DIRECTOR'S REPORT:

Scott Smith, Executive Director, reported that Morro Bay Apartments have a chance of getting funded by TCAC; we will learn the results next week. If the tax credits come through, we can start construction by the end of the year. We will attempt to start rough grading early, to account for it being a culturally sensitive site with archeological monitoring required and likelihood of encountering some level of known artifacts.

The County Board of Supervisors are applying for a \$5 million CDBG grant in August which can only be used for Homekey projects. If the County receives the grant, it will go towards the plumbing and electrical upgrades needed at Project Homekey.

The Empire Inn in Atascadero has been a SLONP property for almost 30 years. The Atascadero Planning Commission unanimously approved our plans to renovate and expand the property.

12:08 P.M. Commissioner Souza now present.

The Commissioners would like to receive advance notification when one of our projects are going before any local government office or advisory body.

CONSENT AGENDA:

- C1. MINUTES OF THE BOARD OF COMMISSIONERS REGULAR MEETING OF JUNE 17, 2021**
- C2. HASLO MONTHLY DISBURSEMENT REGISTER (available for review at the meeting)**
- C3. HOUSING CHOICE VOUCHER (SECTION 8)**
- C4. PROPERTY MANAGEMENT REPORTS**
- C5. FAMILY SELF-SUFFICIENCY & RESIDENT SERVICES PROGRAM REPORT**

ACTION TAKEN: A motion to approve all Consent Agenda items was made by Commissioner Gillett, seconded by Commissioner Steinbeck, and unanimously approved.

DISCUSSION ITEMS:**UPDATING ADMIN PLAN FOR EMERGENCY HOUSING VOUCHERS (EHVs), ONGOING ADMINISTRATIVE CHANGES, AND CLARIFICATION OF SET-ASIDE AND PROJECT-BASED**

Elaine Archer, Director of Housing Management, explained that we are required by HUD to outline in our Admin Plan how we will implement new HUD regulations. The Admin Plan is now over 400 pages long. The most significant development was the inclusion of the Emergency Housing Vouchers (EHV). HUD is revising the background check requirements for EHV applicants since they are homeless or at risk of homelessness. HUD still prohibits lifetime registered sex offenders or those with methamphetamine manufacturing convictions from receiving EHVs, but for EHV applicants HUD has waived some of the offenses that normally prevent an applicant from getting a voucher. The landlord incentives expire when the funding is depleted or in 2030, whichever comes first. HASLO expects to spend all the landlord incentive funding by 2023. As people leave the program, the voucher cannot be transferred to another. HASLO has received 275 referrals to date.

ACTION TAKEN: A motion to adopt **Resolution 12 (2021 Series) Approving Amendments To The Housing Authority of San Luis Obispo's Administrative Plan** was made by Commissioner Boyer, seconded by Commissioner Crotser, and approved on the following roll call vote:

AYES: Commissioners Boyer, Crotser, Beck, Gillett, Souza, Steinberg
NOES: None
ABSENT: Commissioners Odenthal
ABSTAINED: None

12:25 P.M. Chair Beck announced we were going into closed session.

12:26 P.M. Sandra Bourbon and Vicky Culman now absent.

CLOSED SESSION:**1. Closed session, pursuant to section 54956.8****CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Property: APN 002-431-007
Agency Negotiators: Scott Smith, Executive Director
Ken Litzinger, Director of Finance
Negotiating Parties: The Housing Authority of the City of San Luis Obispo (HASLO)
955 Partnership (not present)
Under Negotiation: Update: The Negotiators' authority regarding the price and terms.

2. **Closed session, pursuant to section 54956.8**

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: APN 004-811-036

Agency Negotiators: Scott Smith, Executive Director
Ken Litzinger, Director of Finance

Negotiating Parties: The Housing Authority of the City of San Luis Obispo (HASLO)
Bridge Squared, LLC (not present)

Under Negotiation: Update: The Negotiators' authority regarding the price and terms.

3. **Closed session, pursuant to section 54957**

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: All positions will be discussed.

1:11 P.M. Chair Beck announced that the closed session had ended, and we were back in regular session.

The following actions were taken in closed session:

1. Staff updated the Commission on property negotiations for APN 002-431-007. No action taken.
2. The Commission authorized staff to close escrow on APN 004-811-036.
3. The Commission authorized the payment of performance bonuses to staff reflecting the past 24 months performance.

There being no further business, the meeting was adjourned at 1:15 p.m.

Respectfully submitted,

Scott Smith, Secretary

Executive Summary

Housing Choice Vouchers (“Section 8”)

- Waiting List Lease-up Activity:
 - Housing Choice Voucher
 - We are surveying all waiting list applicants to see if they are eligible for the Emergency Housing Vouchers.
 - We are starting to set up policies and procedures for the Emergency Housing Vouchers, which start July 1st.
 - Statistics for the % success rate for the regular waiting list, by year, is:

Year	Lottery Size	Leased-up	% <i>Leased</i>	Rent-in-Place % of Leased-up	% white of leased-up	% Hispanic of leased-up
2015	500	133	26%	did not track	70%	29%
2017	250	97	38%	28%	67%	39%
2018	500	203	40%	30%	75%	28%
2018-Fall	250	81	32%	unknown	80%	30%
2020	250	79	32%	23%	76%	33%
				<i>County statistics</i>	89%	23%

- Average Housing Assistant Payment (HAP) Analysis –
 - We continue to see encouraging signs with the voucher program in terms of average family income and average HAP.
 - We are seeing some upward pressure on Rent to Owner and are watching market rents.
- Mainstream Voucher Activity
 - We expect that the mainstream voucher activity will decline due to the new Emergency Housing Vouchers
 - We did see some net increase in vouchers leased up over the last month
- Distribution of Vouchers
 - The chart below shows the breakdown of unit type by program and breakdown of “regular vouchers” versus “special purpose vouchers”

**Vouchers, by Program Type
Trend Analysis Report
as of 7/31/21**

	HUD Ctrct		# of Leased Participants, by voucher size							avg HAP	avg HAP	%
	# Units	TOTAL Leased	Studio	1 bd	2 bd	3 bd	4 bd	5 bd	Curr Mo	pre-COVID	chge	
HCV & TPV	1,702	1,691	8	1,045	398	198	40	2	\$917	\$814	12.6%	
RAD / PBV	175	130	10	14	47	40	18	1	\$803	\$713	12.6%	
PBV	328	313	26	105	86	85	11		\$814	\$760	7.1%	
	2,205	2,134										
VASH	201	155	18	105	20	11	1		\$767	\$684	12.2%	
PBV-VASH	25	25		23	2				\$724	\$726	-0.3%	
Welcome Home	156	21	2	10	8	1			\$1,010			
FUP	38	37	1	2	25	8	1		\$1,341	\$1,182	13.5%	
Mainstream	153	116	26	65	19	4	2		\$923	\$320	188.3%	
	573	354										
	2,778	2,488	91	1,369	605	347	73	3	\$886	\$796	11.3%	
<i>distribution by voucher size</i>			4%	55%	24%	14%	3%	0.1%				

- Net Voucher Activity Analysis:
 - New analysis to be included each month to show the breakdown of new and EOP (end of participation) activity by major program
 - There was a net decrease in vouchers during the month of June

50058 Analytics

Voucher Analysis - 2021

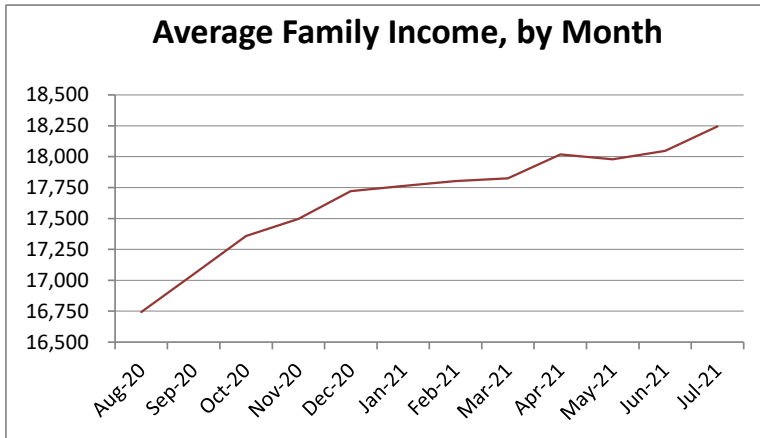
	<u>HCV</u>		<u>PBV</u>		<u>VASH</u>		<u>FUP</u>		<u>Mainstream</u>		<u>Welcome Home</u>	
	<u>new</u>	<u>EOP</u>	<u>new</u>	<u>EOP</u>	<u>new</u>	<u>EOP</u>	<u>new</u>	<u>EOP</u>	<u>new</u>	<u>EOP</u>	<u>new</u>	<u>EOP</u>
January	12	-13	2	-4	4	-2	1	0	7	0		
February	13	-11	8	-5	3	-1	3	0	11	-4		
March	6	-14	4	-2	1	1	0	0	5	0		
April	4	-9	4	-8	0	-3	0	0	11	0		
May	2	-8	1	-2	3	-3	0	0	1	0		
June	1	-15	1	-4	0	-2	0	0	4	0		
July	5	-1	2	-1	3	-4	0	-1	2	-1	22	0
August												
September												
October												
November												
December												
YTD Totals	43	-71	22	-26	14	-14	4	-1	41	-5	22	0
YTD Net Program		-28		-4		0		3		36		22

- Staffing
 - The department has been expanding, as we incorporate the new mainstream awards from the last year as well as the new Emergency Housing Vouchers
 - We have a new Housing Specialist II that transferred from the Property Management side of the house. We are excited to increase the cross flow of knowledge between departments.
 - We are in the process of screening applicants for the Housing Assistant position.

HASLO

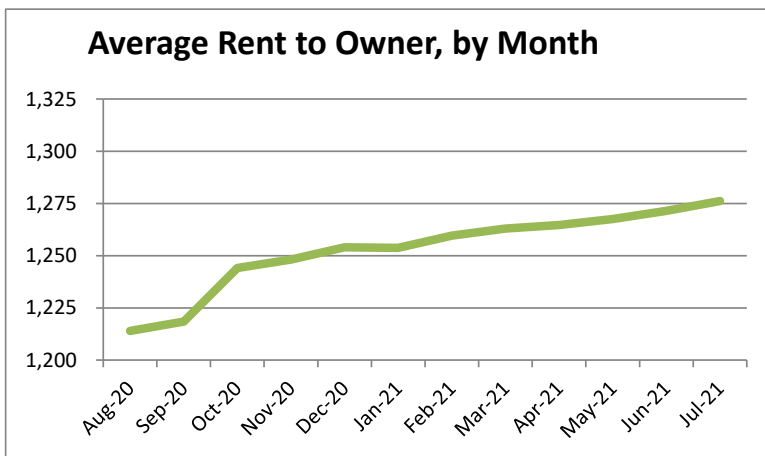
Voucher Monthly Analysis (VMA)

Rolling 12 months

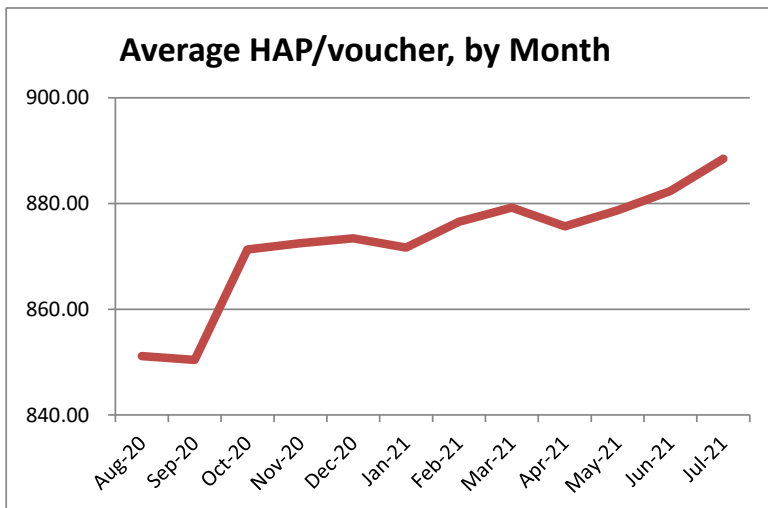


Average HH Income, 12 month % change: 9.0%

AMI March 2020, pre pandemic 17,451
 AMI, current 18,245
 relative AMI comparison: 104.6%



RTO, 12 month % change: 5.1%



Average HAP, 12 month % change: 4.4%

of HH members assisted, beg of year: **4,432**
 # of HH members assisted, end of 12 months: **4,564**
 % change 3%

Housing Authority of San Luis Obispo
Housing Choice Voucher Lease up and Funding Analysis
August 2021

The summary at the top of the page shows the year to date leasing activity for our “Regular” Housing Choice Voucher program. The Regular vouchers are comprised of 2,205 general vouchers, 226 Veterans vouchers, and 38 Family Unification vouchers for a total of 2,469 available vouchers. In addition, HASLO administers 153 Mainstream and 156 Emergency Housing vouchers that HUD considers as separate stand-alone programs for tracking and funding purposes.

The number of “Regular” Housing Choice Voucher participants assisted has trended down from the high point of 2,427 participants in March. However, we anticipate adding up to 45 additional participants in September and October as the final 2 Public Housing property rehabilitations are completed and the units placed back into service. We do anticipate that the lease up of our Emergency Housing Vouchers may impact the success rate of regular voucher holders who are looking for housing.

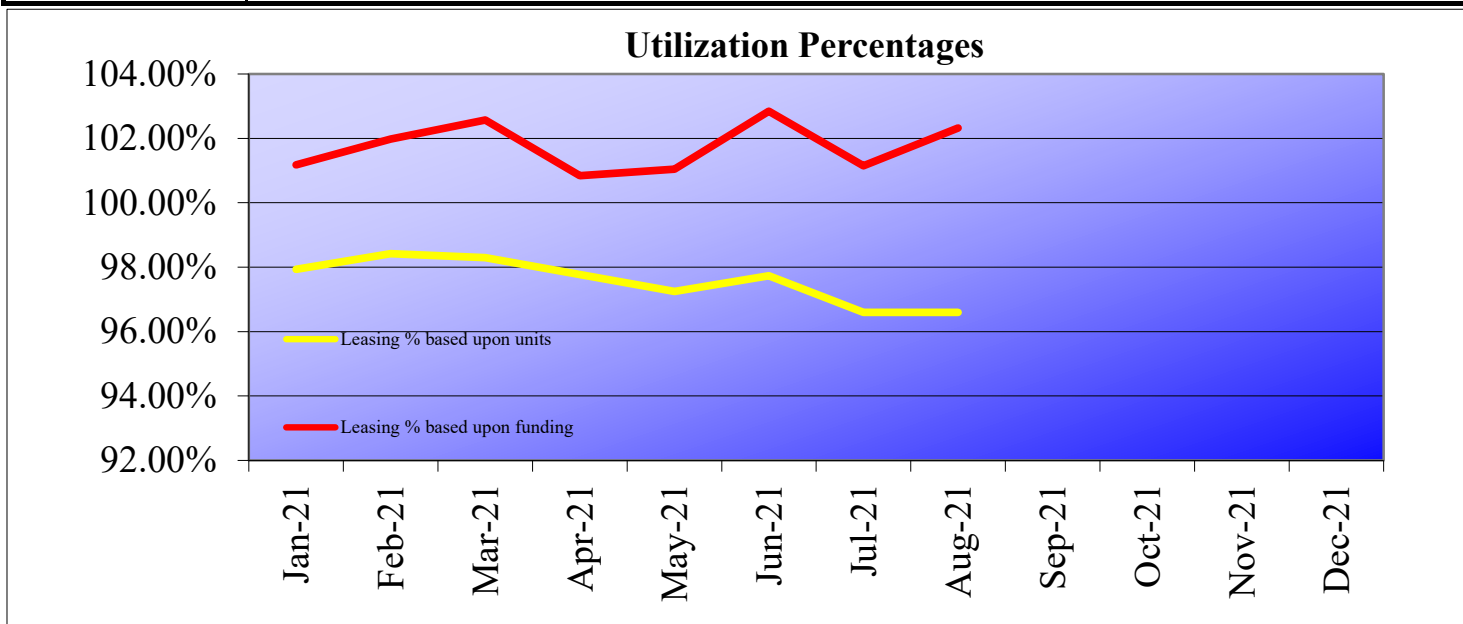
The Mainstream voucher program continues to have strong leasing numbers, and we are assisting 121 participants. The Emergency Housing vouchers, which were received in July, are off to a terrific start with over 20 participants being leased.

We are projecting that the Average Housing Assistance Payment (HAP) will increase materially as landlord become aware of the increases to the HASLO payment standard and request rent increases. The rental market continues to be very competitive, which is resulting in increasing market rents. Additionally, we expect a significant increase in the average HAP in October as rent increases are given to some of the larger tax credit properties that have accepted large numbers of Housing Choice Voucher participants. We have applied to HUD for additional funding, and are optimistic that we will receive additional funding. If received, this could help offset the increasing average HAP costs.

Reserves remain strong at just over \$1.3 million, which allow us to maintain a high lease up through the remainder of the year.

Housing Authority San Luis Obispo
HCV Leasing Financial Analysis
August 2021

	Unit Months Available	Unit Months Leased	Leasing % based upon units	ABA /HAP Funding Allocation	HAP Expenses Paid	Funding Surplus / (Shortfall)	Leasing % based upon funding	Per Unit HAP
January 2021	2,469	2,418	97.93%	\$ 2,120,005	\$ 2,145,052	\$ (25,047)	101.18%	\$ 887
February 2021	2,469	2,430	98.42%	\$ 2,120,005	\$ 2,162,002	\$ (41,997)	101.98%	\$ 890
March 2021	2,469	2,427	98.30%	\$ 2,120,005	\$ 2,174,502	\$ (54,497)	102.57%	\$ 896
April 2021	2,469	2,414	97.77%	\$ 2,120,005	\$ 2,137,861	\$ (17,856)	100.84%	\$ 886
May 2021	2,469	2,401	97.25%	\$ 2,120,005	\$ 2,142,158	\$ (22,153)	101.04%	\$ 892
June 2021	2,469	2,413	97.73%	\$ 2,120,005	\$ 2,180,297	\$ (60,292)	102.84%	\$ 904
July 2021	2,469	2,385	96.60%	\$ 2,120,005	\$ 2,144,472	\$ (24,467)	101.15%	\$ 899
August 2021	2,469	2,385	96.60%	\$ 2,120,005	\$ 2,169,256	\$ (49,251)	102.32%	\$ 910
September 2021								
October 2021								
November 2021								
December 2021								
YTD	19,752	19,273	97.57%	\$ 16,960,042	\$ 17,255,600	\$ (295,558)	101.74%	\$ 895



NRA + Prog Reserve Balance (Excess HAP) as of 1/1/2021	\$ 1,672,901	YTD Voucher	YTD	
HAP Funding YTD:	\$ 16,960,042	Months	Vouchers	
HAP Expenditures YTD:	\$ 17,255,600	Available	Leased	
HAP Revenue (Fraud, FSS Forfeits) YTD:	\$ -	Regular Vouchers	17,640	17,502 99.2%
Current Remaining NRA / Prog Reserve:	\$ 1,377,343	Veterans (VASH)	1,808	1,474 81.5%
Months in Reserves at Current Monthly Expense Levels	28.0	Family Unification	304	297 97.7%
Reserves as a Percentage of Budget Authority	5.4%	Total Vouchers	19,752	19,273 97.6%
Current Monthly Funding (a)	\$ 2,120,005			
Current Average HAP Payment (b)	\$ 910	Mainstream	1,224	875 71.5%
# of Units the Current Monthly Funding Would Support (a)/(b)	2,331	Emergency Housing	312	24 7.7%
# of Units Currently Leased	2,385			
Excess Units Leased, Current Month	54			
Current Year-to-Date Funding (a)	\$ 16,960,042			
Current Year-to-Date Average HAP Payment (b)	\$ 895			
# of Unit-Mos the Current Monthly Funding Supports (a)/(b)	18,943			
# of Unit-Mos Leased Year-to-Date	19,273			
Excess Unit-Mos Leased, Year-to-Date	330			

Executive Summary

Welcome Home Vouchers

- 156 Vouchers were awarded to HASLO effective July 1, 2021
- MOU entered into with the Continuum of Care through the Homeless Services Oversight Council (HSOC)
- In addition, MOU's entered into with a dozen other non-profits and service agencies throughout the County
- In the first 50 days of the program, we have received 450 referrals!

<u>Agency</u>	<u># referred</u>	<u>% referred</u>	<u># Rent-in-Place (RIP)</u>	<u>% RIP</u>	<u># newly Housed</u>	<u>% success housed</u>
<u>Continuum of Care</u>						
5CHC	45	10%	11	24%	4	9%
CAPSLO	43	10%	1	2%	4	9%
ECHO	44	10%	0	0%	0	0%
COC/S8 WL	0	0%	0		0	
	132	30%	12	9%		
<u>Veterans</u>						
5CHC/SSVF	7	2%	4	57%	0	0%
SSVF	11	2%	3	27%	0	0%
	18	4%	7	39%		
<u>Mental Health</u>						
SLO/CO.MH	40	9%	1	3%	2	5%
TMHA	45	10%	7	16%	6	13%
	85	19%	8	9%		
<u>DV/Trafficking</u>						
Freedom Calling	0	0%	0		0	
CCFN	0	0%	0		0	
Lumina (RISE/SS)	25	6%	3	12%	0	0%
	25	6%	3	12%		
<u>DSS Programs</u>						
FCN/HSP	73	16%	13	18%	3	4%
DSS	6	1%	0	0%	0	0%
APS/DSS	19	4%	0	0%	1	5%
	98	22%	13	13%		
<u>Other Agencies</u>						
ASN	17	4%	1	6%	0	0%
ILRC	6	1%	0	0%	0	0%
NCI/Achieve	0	0%	0		0	
Restorative Part.	7	2%	0	0%	0	0%
SALVATION ARMY	56	13%	0	0%	0	0%
SLOCOE	0	0%	0		0	
TCRC	1	0%	0	0%	0	0%
TFS	0	0%	0		0	
The Link	2	0%	0	0%	0	0%
	89	20%	1	1%		
total	447		44	10%	20	4%

- More than 65% of the applicants are eligible for a one-bedroom voucher. The distribution of voucher sizes is as follows:

<u>vo size</u>	<u>count</u>	<u>%</u>
1	294	65%
2	105	23%
3	40	9%
4	11	2%
	450	100%

- A surprising 37% of the applicants have never applied for a HASLO program in the past. We receive phone calls every day from applicants who have heard about the program and wonder if they are eligible. All such calls are referred to The Salvation Army for an intake interview.
- 44 of the applicants are receiving temporary rental subsidy and will be able to convert that into long-term voucher assistance through this program
- Another 20 applicants have found housing, some through their supportive housing (SuppH) programs such as those offered by Lumina and by TMHA and some through landlords in the community. Not all tenants have moved into their new unit yet; for those that have, the breakdown of housing found is:

24	Market
6	Tax Credit
14	SuppH
1	Affordable
45	

- We are offering landlords incentives to house the Welcome Home participants. Based on these units, the total payable so far is just over \$52k

<u>Incentive Summary</u>	<u>count</u>
\$4,000	2
\$2,500	0
\$1,000	29
Other	14
TOTAL payable	\$52,750

- We have been offering group briefings in order to issue the vouchers as quickly as possible. Staff have been travelling to the offices for our various partner agencies to conduct both indoor and outdoor briefings. These have been well received
- We continue to work on the Media Campaign and hope to have a Public Service Announcement playing in August and for a social media campaign as well as TV advertising

Executive Summary

Property & Asset Management

- Key Priorities for the Property Management team continue to be:
 - COVID-19 Related Activities:
 - ✓ We continue to wait for the State to get caught up with processing the rental assistance for tenants that were unable to pay their rent during COVID
 - ✓ We are hopeful that the rules have been changed to enable a landlord to receive funding without the cooperation of the tenant
 - Vacancies
 - ✓ We have started to contact the remaining names on the Anderson waiting list to fill the vacant units. We will review the HUD regulations for modifying the Tenant Selection Plan to determine if we can give priority to the local homeless shelter if we need to re-open the waiting list
 - Maintenance
 - ✓ No significant changes this month
 - RAD
 - ✓ We are in the final stages of the project, with the last 2 properties under renovation
 - ✓ We continue to meet weekly to discuss and review priorities
 - Community and Family Support
 - ✓ We have hired several new staff and are excited about the development of our program to provide support to our families
 - Paso Homekey
 - ✓ Monthly inspections are being conducted to ensure that the units remain in good condition, that we don't have any pest control issues and that we identify smoking and housekeeping violations in a timely manner
 - ✓ We have reviewed the services that are being provided by the Supportive Housing Team. Based on an analysis of the services offered and accepted, tenants are seeking assistance in the areas of:
 - Continuation and access to Mental Health services (45%)
 - Continuation and access to intensive wraparound services (45%)
 - Continuation and access to Substance abuse services (31%)
 - Life skills coaching and daily access to services (65%)
 - Tenancy and lease compliance assistance (53%)
 - Crisis services (42%)
 - Primary care services – getting access to services or staying connected to medical services (78%)
 - Employment (35% tenants are employed, with 11% of those tenants maintaining their employment and 5% engaging in side jobs)
 - Probation and legal services (28%)
 - Transportation assistance (22%)
 - Connecting to an offsite religious organization (24%)

August 10, 2021

To: HASLO Board of Commissioners
 From: Traci Walker, Resident Services Coordinator for Sandra Bourbon, Director of Resident Services
 Re: July 2021

FSS:

Continued outreach, case management and annual assessments. The below chart is as of 07-31-2021.

	Sandra	Traci	TOTAL
Active	37	29	68
New contracts added this month	0	0	0
Graduates this grant period	2	2	3
Terminated for Non-Compliance / Contract Expired / Voluntary Withdrawal within this grant period	0	3	3
Active participants who have ported out this grant period	0	0	0
Increase in Earned Income this month	246,952	286,994	533,946
Increase in Tenant Payment (TTP) this month	5,812	6,874	12,686
Total Escrow Accounts	28	18	44
New Escrow Accounts this grant period	1	2	3
Percentage of participants with an Escrow Account this month	75.68%	58.62%	68.18%
Total Escrow Account balance	166,389.98	133,421.06	299,811.04
Total interim withdrawals paid within this grant period	0	0	0
Total of Escrow Account funds paid out to FSS Graduates for this grant period	23,578.44	19,988.60	43,567.04

***FSS graduates:** 01/31/2021 (sb) \$11,327.67, 04/30/2021 (sb) \$12,250.77, 05/31/2021 (tw) \$13,367.80, 7/1/21 (tw) \$6,620.80

***FSS terminations:** 2/28/2021 (tw) \$0 forfeited voucher/contract not complete. 04/30/2021 (tw) \$0 contract expired. 05/31/2021 (tw) forfeited \$12.04 contract not complete

SERVICES:

Our new Resident Services Assistant, Natali has started offering onsite activities South Hills Crossing and Courtyard at the Meadows, with strict COVID related protocol. Policies, procedures as well as activities continue to be adjusted as HASLO, CDC and TCAC guidelines update. We are continuing to provide monthly calendars and virtual learning center activities and resources. Onsite presence at 860 has started this month and will be expanding in near future. Food Bank produce and programs such as Children's Breakfast Bags, Senior's Farmers Markets continue to be offered and delivered weekly at multiple locations.

We continue to be busy conducting Resident Services interviews for the intake process with Property Management for the SLO Villages lease up. We are completing up to 8 interviews a day.



Development Update			
Date of Update	7/23/2021		
			
DEVELOPMENT			
	PROJECT	ACTION	NOTES/GOALS
	Anderson Hotel	Feasibility	Material testing and geotechnical investigation ongoing. Smith Structural Group and Buehler Engineering have produced a draft report with a PML of 6-13% Lead and asbestos reports received for interior spaces Phase 1 ESA in process
			TCAC issued unfavorable response, strategizing a rebuttal
			Pankow, Blach and Kitchell have interest in preconstruction and construction services
	Project HomeKey	Delivery	Design/build or Design/assist, shortened feasibility period does not allow for traditional design-bid-build
		Construction	Next phase of work to be completed by 6/2022, includes kitchens, office expansion and shelter improvements
	Cleaver Site, Grover	Strategy	Partnership with PSHHC for 53 units of affordable housing
		Entitlements	Project is in design development, PSHHC is taking the lead
		Acquisition	HASLO has acquired the first of two parcels. Cleaver Park acquisition requires Disposition and Development Agreement, which is in draft form
	1422 & 1480 Monterey	Acquisition	Escrow closed on 1/11/2021
		Strategy	Partnership with Jim Rendler, 100+ units of mixed-use housing. JB Enterprises to management the commercial tenants
		Entitlements	Pre-application review completed, City comments are extensive
	RAD Conversion	Construction	Hathway and Leff are under construction, shooting for late August/September completion. Punch list and warranty follow-up is ongoing.
	Toscana Site	Site control	Deeded to HASLO
		Financing	Reservation of 9% credits confirmed
		Construction	Project will go out to bid in September. 12/15/2021 anticipated construction start
	Office	Entitlements	Received Planning Commission approval on 6/10/20
		Design Development	Working with RRM on spatial planning, aiming to be construction in summer of 2022
	Nipomo Senior 40	Construction	Both buildings are framed, rough in MEPs ongoing Project is on schedule and on budget
	2655 Shell Beach Road	Acquisition	Escrow closed on 12/23/2020
		Strategy	20+ units of senior housing, co-developing with Pacific Development Group
		Entitlements	Fully approved
		Financing	Not recommended for a credit allocation, will be reapplying in March of 2022.
	405 Atascadero Road	Entitlements	Project is approved. Working with Tribes to determine appropriate mitigation measures
		Strategy	35 units of large family housing, co-developing with Jim Rendler
		Financing	Project is likely to receive an award, finance closing in Q1 of 2022 with construction start scheduled for March of 2022
	736 Orcutt Road	Strategy	40+ units of special needs housing, built around the old house
		Entitlements	Project has been deemed incomplete, working on those items and expect to turn the project back in, in July.
		Financing	TCAC application planned for 7/22
	2690 Victoria	Strategy	30+ units of large family mixed use housing on the former maintenance yard site
		Entitlements	This project is being evaluated internally.
		Financing	TBD

700 N. Oak Park			
	Strategy	63 units of large family mixed use housing	
	Site acquisition	Closed escrow on June 4th.	
	Entitlements	Fully approved, except trash enclosures...	
	Financing	TCAC large family application 2022	
279 Bridge Street			
	Strategy	94 units of large family/senior mixed use housing	
	Site acquisition	HASLO closed escrow on the site	
	Entitlements	Unanimous ARC approval, scheduled for planning commission on 8/25/2021	
	Financing	Phased TCAC applications	
Iron Works Mixed-Use			
	Construction	Construction completion scheduled for 12/2021	
	Lease Up	Searching for broker to assist with the lease up	
Empire Apartments			
	Strategy	Renovate the existing 13 units and add 19 units	
	Entitlements	Approved at Planning Commission on 7/20/2021	
Macadero Apartments			
	Strategy	Renovate the existing 19 units and add 6 units	
	Entitlements	Schedule for Planning Commission on 9/7/2021	



Clever & Clark Commons



Nipomo Senior

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Attachments

Attachment 1-A Legal Description of City Property

Attachment 1-B Legal Description of Adjacent Property

Attachment 2 Scope of Project

Attachment 3 Form of City Regulatory Agreement

**DISPOSITION AND DEVELOPMENT AGREEMENT
(Cleaver Property Affordable Housing Project)**

This DISPOSITION AND DEVELOPMENT AGREEMENT (“**Agreement**”) is dated as of [Month, Date] 2021 (the “**Effective Date**”), by and among the CITY OF GROVER BEACH, a municipal corporation (the “**City**”), and ~~[TBD]~~ Cleaver & Clark Commons, L.P., a California limited partnership (“**Developer**”)¹ and the HOUSING AUTHORITY OF THE CITY OF SAN LUIS OBISPO (“**HASLO**”), a California public agency. The City and Developer may be referred to individually as a “**Party**” or together as the “**Parties.**”

RECITALS

A. Capitalized terms used but not defined in these Recitals shall have the meaning set forth in Section 1.0 below.

B. The purpose of this Agreement is to advance City's purposes and goals in facilitating the development of an affordable housing project in City.

C. The City is the owner of approximately 36,750 square feet of real property located on South 13th Street approximately 200 feet south of West Grand Avenue, Grover Beach, California (the “**City Property**”), more particularly described in Attachment 1-A. HASLO currently has site control for 1206 West Grand Avenue, adjacent to the Property (“**Adjacent Property**”), more particularly described in Attachment 1-B. Collectively, the City Property and the Adjacent Property may be referred to as the “**Site.**”

D. The City Property is currently unimproved with the exception of a small landscaped public seating area; there is an existing building on the Adjacent Property. The project to be constructed by Developer under this Agreement will be an affordable housing project (the “**Project**”) developed on the Site. As part of implementing its Housing Element, the City has re-designated the Site as Central Business Open (CBO) with a Planned Development Overlay zoning. The Project will be consistent with the land use designation for the Site under the General Plan and City's zoning ordinance at the time the Developer applies to the City for the Project's land use entitlements. Developer will also incorporate an oak tree design into the Project signage.

E. The Project will consist of fifty-three (53) rental units, including one (1) manager's unit and fifty-two (52) affordable rental units subject to a City Regulatory Agreement in the form attached as Attachment 3 (the “**City Regulatory Agreement**”) that will restrict twenty six (26) of the units to households earning up to 60% of area median income. Developer intends to apply for an allocation of Low Income Housing Tax Credits for fifty-two (52) units that will be restricted by the California Tax Credit Allocation Committee to households earning up to 60% of area median income and one (1) unrestricted manager's unit. The Project is more particularly described, including the anticipated affordability level distribution, in the Scope of Development attached hereto as Attachment 2. The Project will be constructed on the land

¹ Note: People's Self-Help Housing and HASLO (or entities under their control) will form a limited partnership to develop the property using tax credits. Once the partnership is formed, its name will be added to the document.

Commented [DH1]: As we discussed in our last phone call, I don't see the regulatory agreement being the defining agreement for the City's executory interest in the property should PSHH be non-compliant with the obligations to construct this project. I believe Staff would like to see three milestones developed in this agreement. First, there should be one for PSHH receiving approval of the tax credits; second for starting construction following tax credit approval, and third, for completion of construction and issuance of a certificate of occupancy. In the event any of these milestones are not met, the city could terminate the agreement and seek ownership of the property through the condition subsequent in the deed.

described on Attachment 1, which is currently owned in part by the City and in part by a third party over which HASLO has site control. City will also waive the street construction of West Grand Avenue to the centerline consistent with Grover Beach Municipal Code Section 5.20.030.A. The Project shall be constructed in substantial conformance to the plans and specifications attached hereto as Attachment _____.

F. The Parties wish to enter into this Agreement to set forth the terms and conditions relating to City's disposition of the City Property to HASLO via a land donation and to define HASLO's obligation to transfer the City Property to the Developer to create the Project.

G. The City desires that the Project be developed to create affordable housing to help provide units affordable to lower income households, consistent with the City's adopted Housing Element. The development of the Project as provided for in this Agreement is in the vital and best interest of City and enhances the welfare of City's residents and increases affordable housing in accordance with the public purposes and provisions of applicable state and local laws. Moreover, the City will transfer the City Property to HASLO, a public entity, subject to the conditions of this Agreement, whose public purpose involves the development and management of affordable housing. HASLO will subsequently transfer the City Property to the Developer to create the Project in furtherance of HASLO's public purposes. Accordingly, the City Property is being transferred both for the City's use and to another public agency for its use. Therefore, the City Property is not "surplus," and it is exempt from the Surplus Land Act; each of which provides a sufficient and independent basis for the disposition of the City Property to HASLO under the process set forth in this Agreement.

NOW, THEREFORE, in reliance on the Recitals above and in consideration of the mutual covenants, agreements and conditions set forth herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

AGREEMENT

1. Definitions.

As used in this Agreement, including the Recitals above, the following capitalized terms shall have the following meanings.

"Actual Knowledge" in the case of Developer shall mean the actual knowledge of the President of People's Self-Help Housing or the Executive Director of HASLO and in the case of City shall mean the actual knowledge of the City Manager (not inclusive of any designee), and in each instance shall not impose a duty of investigation by City or Developer.

"Agreement" shall mean this Disposition and Development Agreement between City, Developer, and HASLO.

"Approved Uses" is defined in Section 3.13.a.

"Certificate of Occupancy" is defined in Section 5.4.

Commented [DH2]: To the extent the city desires to protect a defined performance schedule with retaining some form of executory future interest, the agreement would need to include language that the city would have the ability to obtain the property back should the performance schedule not be complied with. Those protections would have to contractually be required on any sale of the property.

"City" shall mean the City of Grover Beach, California, a California municipal corporation.

"City Regulatory Agreement" is defined as the form of regulatory agreement attached hereto as Attachment 3.

"City Manager" shall mean the City Manager of City or his or her designee.

"City's Conditions Precedent" shall mean the conditions precedent to the Close of Escrow to the benefit of City, as set forth in Section 3.10.a.

"Close of Escrow" shall mean the date that a grant deed for the City Property in favor of HASLO is recorded in the Official Records of the County Recorder's Office.

"Closing Date" shall mean that date ending thirty (30) days after HASLO's Conditions Precedent and City's Conditions Precedent have been satisfied or waived.

"County" shall mean the County of San Luis Obispo.

"Default" shall mean the failure of a Party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure.

"Default Notice" shall have the meaning set forth in Section 7.1.

"Developer" shall mean **FBD CLEAVER & CLARK COMMONS, L.P.**, a California limited partnership, the managing general partner of which is affiliated with People's ~~Self-Help~~Self-Help Housing (defined below).

Commented [DH3]: This needs to be defined before the agreement is entered into.

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"Effective Date" shall be the first date mentioned above in this Agreement.

"Exceptions" shall have the meaning set forth in Section 3.9.

"Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State, the County, City, or any other political subdivision in which the Site is located, and of any other political subdivision, which are applicable to City, Developer or the Site.

"Grant Deed" shall mean the grant deed for the conveyance of the Site from City to HASLO.

"HASLO's Conditions Precedent" shall mean the conditions precedent to the Close of Escrow for the benefit of HASLO, as set forth in Section 3.10.b.

"Hazardous Materials" shall mean any chemical, substance, object, condition, material or waste that is or may be hazardous to human health or safety or to the environment, due to its radioactivity, ignitability, corrosivity, flammability, reproductive toxicity, infectiousness or other harmful properties or effects, including all chemicals, substances, materials and wastes that are now or hereafter may be regulated in any manner, classified as dangerous, hazardous or toxic, or as pollutants or contaminants, or to which exposure is prohibited or restricted by any federal, state or local government or public agency, board, body or authority or by any Hazardous

Material Law. "Hazardous Materials" include flammable explosives, radioactive materials, polychlorinated biphenyls, asbestos, hazardous waste, radon, toxic substances or other related materials whether in the form of a chemical, element, compound, solution, mixture or otherwise, including those materials defined as "hazardous substances", "hazardous materials", "toxic substances", "air pollutants", "toxic pollutants", "hazardous wastes", "extremely hazardous waste" or "restricted hazardous waste" by any Hazardous Materials Law. Notwithstanding the foregoing, "Hazardous Materials" shall not include substances typically used in the ordinary course of developing, operating and maintaining apartment complexes provided that such substances are used in accordance with all applicable laws.

"Hazardous Materials Law" means, without implied limitation, substances defined as "hazardous substances," "hazardous material," "toxic substance," "solid waste," or "pollutant or contaminate" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601, et seq.; the Toxic Substances Control Act ("TSCA") [15 U.S.C. Sections 2601, et seq.]; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, et seq.; those substances listed in the United States Department of Transportation (DOT) Table [49 CFR 172.101], or by the EPA, or any successor authority, as hazardous substances [40 CFR Part 302]; and those substances defined as "hazardous waste" in Section 25117 of the California Health and Safety Code or, as "hazardous substances" in Section 25316 of the California Health and Safety Code; other substances, materials, and wastes that are, or become, regulated or classified as hazardous or toxic under federal, state, or local laws or regulations and in the regulations adopted pursuant to said laws, and shall also include manure, asbestos, polychlorinated biphenyl, flammable explosives, radioactive material, petroleum products, and substances designated as a hazardous substance pursuant to 33 USC Section 1321 or listed pursuant to 33 USC Section 1317.

"Holder" shall have the meaning set forth in [Section 4.1](#).

"Notice" shall mean a notice in the form prescribed by [Section 8.1](#).

"Opening of Escrow" shall mean the date a copy of this fully executed Agreement is deposited with the Title Company and a request on Escrow Holder is made to open escrow.

"People's Self-Help Housing" shall mean People's Self-Help Housing Corporation, a California nonprofit public benefit corporation.

"Project" is defined in Recital D above and is described in the Scope of Development.

"Project Partnership" shall have the meaning set forth in [Section 8.3.a](#).

"Right of Entry" shall have the meaning set forth in [Section 3.13.a](#).

"Scope of Development" attached hereto and made a part hereof as [Attachment 2](#) describes the amount and quality of development of the Project to be constructed by Developer pursuant to the terms and conditions of this Agreement. The Scope of Development is subject to administrative amendment, by the City Manager, for minor revisions in location, size, and design.

"Site" shall mean the land described on Attachment 1.

"State" shall mean the State of California.

"Studies" shall have the meaning set forth in Section 3.12.

"Tax Credit Allocation" shall have the meaning set forth in Section 2.2.

"Tax Credits" shall have the meaning set forth in Section 2.2.

"Title Company" shall mean [x], or another escrow title company satisfactory to HASLO, Developer, and to the City Manager.

"Title Policy" shall have the meaning set forth in Section 3.3.

2. Term and Financing.

2.1 Term. The term of this Agreement will commence on the Effective Date and will end on the earlier of: (a) the date of the Close of Escrow, or (b) **December 31, 2026**, unless extended by mutual agreement of the Parties ("**Outside Date**").

2.2 Tax Credit Financing and Other Financing. Development of the Project is contingent upon (a) Developer receiving a sufficient allocation ("**Tax Credit Allocation**") of 9% low-income housing tax credits ("**Tax Credits**") from the California Tax Credit Allocation Committee ("**CTCAC**"); and (b) **Developer obtaining all other financing commitments to enable Developer to finance the Project**. This Agreement assumes that the Project will be financed with 9% Tax Credits. However, Developer shall have the right to apply for additional or different sources of financing as Developer determines is necessary to ensure the feasibility of the Project. In the event the Developer, fails to acquire financing by _____, 2024 it shall inform the City in writing of such condition by that date, and shall either exercise the option of waiving the condition precedent of obtaining financing and proceeding with development or shall deed the property back to the City in the same condition and without any encumbrances of title not otherwise approved by City. Developer shall perform either of these options no later than _____, 2024.

3. City Property Conveyance.

3.1 City Property Conveyance; Fair Market Donation Value. City agrees to convey the City Property to HASLO and HASLO agrees to acquire the City Property from City in accordance with and subject to all of the terms, covenants, and conditions of this Agreement. The Fair Market Donation Value for the City Property to be donated by the City to HASLO, based on the fair market value of the City Property as supported by a third-party appraisal, is [x] (the "**Fair Market Donation Value**"). The city will convey title to the property to HASLO with a fee simple subject to a condition subsequent with a power of termination held by the City. Any conveyance of the property by HASLO shall include the same conditions as are conveyed by City to HASLO wherein City shall retain a power of termination in the event the condition subsequent is breached.

Commented [DH4]: I believe the City is looking for something in the area of three years, not five years. Also, the city doesn't see this agreement ending at the end of escrow as there are many provisions of the agreement, like a performance schedule for construction and the city's executory interest in the property that would survive the close of escrow.

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Commented [DH5]: Financing feasible to the project should be defined if this is a condition precedent to the Developer's obligations under the contract.

Commented [DH6]: Need to add those conditions to the agreement such as a performance schedule for construction and ultimate completion of the project.

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3.2 Escrow. The Parties to this Agreement shall take all necessary steps to ensure the Opening of Escrow with the Title Company, which is to occur no later than fourteen (14) days after the Effective Date.

3.3 Costs of Escrow and Title Policy. HASLO shall pay for the premium for a CLTA owner's policy of title insurance in favor of HASLO ("**Title Policy**"). Developer shall pay the additional premium for an ALTA Owner's Title Policy and any endorsements if Developer desires an ALTA Owner's Title Policy. Escrow fees and charges shall be equally divided between the Parties. City shall pay documentary transfer taxes, if any.

3.4 Escrow Instructions. This Agreement constitutes the joint escrow instructions of HASLO and City for the conveyance of the City Property and of the recording of the City Regulatory Agreement, and the Escrow Agent to which these instructions are delivered is hereby empowered to act under this Agreement. Any insurance policies for fire or casualty are not to be transferred, and City will cancel any of its own policies concurrent, with the Close of Escrow. All funds received into Escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other such escrow trust account in any State or National Bank doing business in the State of California. All disbursements shall be made by check or wire transfer from such account. If in the opinion of either Party or Escrow Agent it is necessary or convenient in order to accomplish the Close of Escrow, the Parties shall sign supplemental escrow instructions; provided, however, that if there is any inconsistency between this Agreement and the supplemental escrow instructions, then the provisions of this Agreement shall control unless both Parties expressly agree, in writing, to the superseding nature of supplemental escrow instructions. The Parties agree to execute such other and further documents as may be reasonably necessary to effectuate the provisions of this Agreement. The Close of Escrow for the City Property shall not take place until both City's Conditions Precedent and Developer's Conditions Precedent have been satisfied.

3.5 Authority of Escrow Agent. Escrow Agent is authorized to, and subject to the satisfaction (or written waiver) of HASLO's Conditions Precedent and City's Conditions Precedent, shall:

- (a) Confirm that the Title Company has committed to provide HASLO with a CLTA Owner's Policy of Title Insurance.
- (b) Pay and charge City and/or HASLO for the cost(s) of any escrow fees, charges, and costs payable under Section 3.3 of this Agreement.
- (c) Record the Grant Deed for the City Property and then the City Regulatory Agreement (in the form of Attachment 3).
- (d) Direct City and HASLO to execute and to deliver any instrument, affidavit, and statement, and to perform any act reasonably necessary to transfer the City Property in compliance with State and federal laws and regulations, including execution by City and HASLO of forms to comply with Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) and any similar California law to ensure no withholding is required.

(e) Take such other actions as Escrow Agent is expressly or implicitly authorized to take by this Agreement.

3.6 Closing. The Close of Escrow shall occur no later than thirty (30) days following the satisfaction or waiver of each of HASLO's Conditions Precedent and the City's Conditions Precedent.

3.7 Termination Prior to Close of Escrow. In the event Close of Escrow has not occurred by the Outside Date, either City, HASLO, or Developer shall be entitled to terminate this Agreement, without cause or justification, by written notice, both to the other Parties and to Escrow Agent, so long as the terminating Party is not in Default of this Agreement. Within five (5) business days after written notice of termination, Escrow Agent shall terminate the Escrow and return any money, documents, or other property held in Escrow to the Party who deposited the items, unless a written objection is received by Escrow Agent within this five (5) day period. If any written objections are received by the Escrow Agent within the five (5) day period, Escrow Agent is authorized to hold all money, documents, or other property until instructed to the contrary by a court of competent jurisdiction, or by mutual written instructions of the Parties.

3.8 Closing Procedures. Escrow Agent shall effect the Close of Escrow for the City Property as follows:

- (a) Record the Grant Deed and City Regulatory Agreement;
- (b) Cause the Title Company to deliver the Title Policy to HASLO;
- (c) Forward to HASLO and to City a final settlement statement covering all funds received and disbursed for the benefit of or to each Party.

3.9 Title Insurance. Concurrently with recordation of the Grant Deed conveying title to the City Property to HASLO, Title Company shall issue to HASLO the Title Policy, together with such endorsements as are required by HASLO, insuring that the title to the City Property is vested in HASLO subject to the Exceptions (except for any Exceptions that City has agreed to remove) and the Condition Subsequent contained within the deed and power of termination held by the City. The Exceptions shall be those disclosed by the preliminary title report provided under the Title Policy, to be approved by HASLO.

(a) Title Approval. As soon as practicable following the opening of the Escrow, the City shall instruct the Title Company to deliver a Preliminary Title Report to the Developer and HASLO. Within sixty (60) days following the Developer's and HASLO's receipt of a Preliminary Title Report, the Developer shall deliver the Title Notice to the City (though if Developer fails to do the same, it shall not constitute a Default). If the Developer fails to deliver the Title Notice to the City within sixty (60) days of receipt of the Preliminary Title Report, the Developer and HASLO will be deemed to approve the status of title to the City Property. Within thirty (30) days following receipt by the City of the Title Notice, if any, the City shall serve City's Title Notice Response to the Developer and HASLO. If the Title Notice does not object to any matter in the Preliminary Report, the City shall not be required to serve City's Title Notice Response. If the City does not serve City's Title Notice Response, if necessary, within thirty (30) days following its receipt of the Title Notice, the City shall be deemed to elect not to remove any

Commented [DH7]: Conditions of the deed should be included in the conditions to the DDA.

matter objected to in the Title Notice, if any, from the Preliminary Report. If the City elects in City's Title Notice Response to cause the removal of any matter objected to in the Title Notice from the Preliminary Report, the City shall cause the removal of each such objectionable matter from the Preliminary Report within sixty (60) days following receipt by the Developer and HASLO of City's Title Notice Response or such other period of time that may be agreed to in writing by both the City, HASLO, and the Developer. If the City is unwilling or unable to cause the removal of any matter objected to in the Title Notice from the Preliminary Report, then, within thirty (30) days following the receipt of City's Title Notice Response stating that the City is unwilling to remove or cause the removal of any matter objected to in the Title Notice or upon the expiration of the above time period during which the City elected to remove such objectionable matters from the Preliminary Report and was unable to do so, HASLO may either (1) refuse to accept the title to and conveyance of the City Property, in which case the Developer and HASLO shall have the right to cancel the Escrow and terminate this Agreement without liability to City or any other person, by delivery of a written notice of termination to the Escrow Holder, (2) waive its objection to any items set forth in the Title Notice by delivering the Title Notice Waiver to the City, or (3) agree to extend the time period for the City to remove the objectionable matters from the Preliminary Report to a date agreed upon by the Parties in writing.

HASLO and Developer understand and have knowledge that the title currently held by City was subject to a Condition Subsequent with Power of Termination. The Power of Termination and Right of Reentry were held by the Veterans of Foreign Wars Home For Children (VFW). HASLO and Developer assisted City in the negotiation of a termination of that Right of Reentry and assisted City with the funding necessary to purchase that interest from the VFW. HASLO and Developer are aware the City obtained the interest from VFW by receipt of a Quitclaim deed. HASLO and Developer are further aware the City received a Quitclaim deed from the Cleaver Memorial Trust, and based upon HASLO and Developer's own due diligence is satisfied with the title held by City for purposes of proceeding with the subject development and this Agreement. HASLO and Developer agree they will not challenge or raise an exception to title based upon the executory interest held by VFW or any interest of third parties including the Cleave Memorial Trust. HASLO and Developer agree not to hold City in breach of this Agreement or liable for any cost, damages, claims or liability based upon any challenges by any person or entity to the title held by City or the effect such challenges may have to the Development which is the subject of this Agreement.

3.10 Conditions of Closing. The Close of Escrow is expressly conditioned upon satisfaction of the following terms and conditions within the times designated below:

(a) City's Conditions Precedent. City's obligation to proceed with the Close of Escrow is subject to the fulfillment by Developer and/or HASLO, as applicable, or written waiver by City, of each and every one of the conditions precedent described below ("**City's Conditions Precedent**"), which are solely for the benefit of City, and which shall be fulfilled or waived by the time periods provided for herein. If the City's Conditions Precedent set forth in this Section are neither satisfied nor waived by the Outside Date, and provided that City is not then in default under this Agreement, City may terminate escrow and this Agreement by giving written notice of termination to HASLO, the Developer and to Title Company, in which case the respective rights, duties and obligations of the Parties under this Agreement shall terminate

without further liability, except for obligations that expressly survive termination of this Agreement. Notwithstanding anything to the contrary contained herein, HASLO's and/or Developer's inability to satisfy the City's Conditions Precedent set forth in this Section shall not be considered a breach of this Agreement. The Close of Escrow under this Agreement constitutes satisfaction of the conditions precedent set forth below:

(i) HASLO's delivery of originals of the executed City Regulatory Agreement in the form attached as Attachment 3 to City.

(ii) HASLO's deposit into Escrow, of all sums to be deposited, or paid by HASLO into Escrow in accordance with this Agreement.

(iii) The Title Company shall have committed to provide the Title Policy for the Site upon the Close of Escrow subject only to payment for it in accordance with Section 3.3 above.

(iv) HASLO and Developer shall not be in Default of any of its obligations under the terms of this Agreement and all representations and warranties of HASLO and Developer contained in Section 3.11.b herein shall be true and correct in all material respects.

(b) HASLO's Conditions Precedent. HASLO's obligation to proceed with the Close of Escrow is subject to the fulfillment by City, or written waiver by HASLO, of each and all of the conditions precedent described below ("**HASLO's Conditions Precedent**"), which are solely for the benefit of HASLO, and which shall be fulfilled or waived by the time periods provided for herein. If the HASLO's Conditions Precedent set forth in this Section are neither satisfied nor waived by the Outside Date, and provided that HASLO is not then in default under this Agreement, HASLO may terminate escrow and this Agreement by giving written notice of termination to City and Title Company, in which case the respective rights, duties and obligations of the Parties under this Agreement shall terminate without further liability, except for obligations that expressly survive termination of this Agreement. Notwithstanding anything to the contrary contained herein, City's inability to satisfy the HASLO's Conditions Precedent, except for the HASLO's Condition Precedent identified in subsection (i), shall not be considered a breach of this Agreement. The Close of Escrow under this Agreement constitutes satisfaction of the conditions precedent set forth below:

(i) City shall have executed and acknowledged the Grand Deed granting a fee simple subject to a condition subsequent with power of termination and any other documents required of it hereunder, and delivered them to Escrow.

(ii) Prior to the Close of Escrow, City shall not be in Default in any of its obligations under the terms of this Agreement and all representations and warranties of City contained in Section 3.11.a herein shall be true and correct in all material respects.

(iii) The Title Company shall have committed to issue the Title Policy.

3.11 Representations and Warranties.

(a) City Representations. City represents and warrants to Developer and HASLO as follows:

(i) ~~Subject to the satisfaction of the conditions precedent in the Recitals of this Agreement and Sections 3.10.a and 3.10.b, above, City has full right, power and lawful authority to grant and to convey the City Property and the execution, performance and delivery of this Agreement and the instruments referenced herein by City has been duly authorized by all requisite actions on the part of City. Subject to the satisfaction of the condition precedent in the Recitals of this Agreement and subject to Sections 3.9, 3.10.a and 3.10.b above, the Parties agree City has used reasonable due diligence in clearing title to the subject property. HASLO and Developer based upon their own due diligence agree the City has a reasonable claim to unencumbered title to the subject property. Based upon the mutual agreement between the Parties the City has used reasonable due diligence in acquiring unencumbered title to the Property. The Parties enter into this Agreement with the understanding that there may be claims upon the property which are unknown and/or which have not been asserted, and to the extent HASLO and/or Developer have any interest in obtaining further assurances related to title, they may implement any further due diligence to assure legal title at their costs or expense. The City will make reasonable efforts to assist in any such endeavor. In recognition of the current title held by City as acknowledged by all Parties herein, and subject thereto, City otherwise has full right, power and lawful authority to grant and to convey the City Property and the execution, performance and delivery of this Agreement and the instruments referenced herein by City has been duly authorized by all requisite actions on the part of the City.~~

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(ii) ~~City's execution, delivery and performance of its obligations under this Agreement and the instruments referenced herein will not constitute a default or a breach under any contract, agreement or order to which City is a Party or by which it is bound. Subject to the understanding of the Parties in Section 3.9 and the representations in this Section 3.11, City's execution, delivery, and performance of its obligations under this Agreement and the instruments referenced herein will not constitute a default or a breach under any contract, agreement or order to which City is a Party or by which it is bound.~~

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(iii) To City's Actual Knowledge, there are no pending actions, suits, arbitrations, claims or proceedings, at law, in equity or otherwise, affecting, or which may affect, all or any portion of the City Property.

~~(iv) To City's Actual Knowledge, there are no agreements (whether oral or written), affecting or relating to the right of any Party with respect to the possession of the City Property, or any portion thereof, which are obligations that will affect the City Property or any portion thereof following the Close of Escrow.~~

Until the Close of Escrow, City shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section not to be true as of Close of Escrow, immediately give written notice of such fact or condition to Developer and HASLO. Such exception(s) to a representation shall not be deemed a breach by City hereunder, but shall constitute a matter that Developer and HASLO shall have a right to approve or disapprove if such matter would have a material adverse effect on the value and/or operation of the Project. If Developer and HASLO elect to proceed with the Close of Escrow following disclosure of such

information, City's representations and warranties contained herein shall be deemed to have been made as of the Close of Escrow, subject to such additional matters. If, following the disclosure of such information, Developer and HASLO elect to not close Escrow, then this Agreement and Escrow shall automatically terminate, and neither Party shall have any further rights, obligations or liabilities hereunder.

The representations and warranties set forth in this Section shall survive the Close of Escrow.

(b) Developer's Representations. Developer represents and warrants to City as follows:

(i) Developer is a California limited partnership, which has full right, power and lawful authority to accept the conveyance of the City Property from HASLO, develop the Project on the Site, and undertake all obligations as provided herein.

(ii) The execution, performance and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of its managing general partner.

(iii) To Developer's Actual Knowledge, there are no pending actions, suits, arbitrations, claims or proceedings, at law, in equity or otherwise, affecting, or which may affect Developer's performance of this Agreement.

(iv) Developer has the skill, knowledge and expertise to finance, construct and operate the Project contemplated by this Agreement.

Until the Close of Escrow, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section not to be true as of Close of Escrow, immediately give written notice of such fact or condition to City. Such exception(s) to a representation shall not be deemed a breach by Developer hereunder, but shall constitute a matter that City shall have a right to approve or disapprove if such matter would have a material adverse effect on the development and/or operation of the Project. If City elects to proceed with the Close of Escrow following disclosure of such information, Developer's representations and warranties contained herein shall be deemed to have been made as of the Close of Escrow, subject to such exception(s). If, following the disclosure of such information, City elects to not close Escrow, then this Agreement and Escrow shall automatically terminate, and neither Party shall have any further rights, obligations or liabilities hereunder.

The representations and warranties set forth in this Sections shall survive the Close of Escrow.

(c) HASLO's Representations. HASLO represents and warrants to City as follows:

(i) HASLO is a California public agency, which has full right, power and lawful authority to accept the conveyance of the City Property, develop the Project on the Site, and undertake all obligations as provided herein.

(ii) The execution, performance and delivery of this Agreement by HASLO has been fully authorized by all requisite actions on the part of HASLO, including but not limited to HASLO identification and budgeting of all funds necessary to design and construct the Project.

(iii) To HASLO's Actual Knowledge, there are no pending actions, suits, arbitrations, claims or proceedings, at law, in equity or otherwise, affecting, or which may affect HASLO's performance of this Agreement.

(iv) HASLO has the skill, knowledge and expertise to finance, construct and operate the Project contemplated by this Agreement.

Until the Close of Escrow, HASLO shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section not to be true as of Close of Escrow, immediately give written notice of such fact or condition to City. Such exception(s) to a representation shall not be deemed a breach by HASLO hereunder, but shall constitute a matter that City shall have a right to approve or disapprove if such matter would have a material adverse effect on the development and/or operation of the Project. If City elects to proceed with the Close of Escrow following disclosure of such information, HASLO's representations and warranties contained herein shall be deemed to have been made as of the Close of Escrow, subject to such exception(s). If, following the disclosure of such information, City elects to not close Escrow, then this Agreement and Escrow shall automatically terminate, and neither Party shall have any further rights, obligations or liabilities hereunder.

The representations and warranties set forth in this Sections shall survive the Close of Escrow.

3.12 City Property Inspections.

(a) Developer shall be permitted to inspect the City Property from the Effective Date of this Agreement until the date that is six (6) months after the Effective Date for the purpose of obtaining data and making surveys and tests necessary to complete its due diligence, of the City Property, including the investigation of the environmental condition of the City Property (collectively, the "**Studies**"). Any preliminary work or Studies undertaken on the City Property by Developer shall be done at the sole expense and risk of Developer and Developer shall provide to City a copy of all Studies. Any preliminary work or Studies shall be undertaken only after securing any necessary authorization and/or permits from the appropriate governmental agencies. Any Studies of the City Property by the Developer shall not unreasonably disrupt any then-existing use or occupancy of the City Property or the operations of the City. The Developer shall be liable for any damage or injury to any person or property arising from the acts of the Developer, its employees, agents or representatives during the course of any Studies on the City Property and the Developer shall indemnify, defend with counsel reasonably acceptable to the City and hold harmless the City and its elected officials, officers, directors, attorneys, contractors, agents and employees from any and all actual or alleged liens, claims, demands or liability arising from Developer or its agents' presence on the property or any Studies by the Developer on the City Property.

(b) Upon completion of the Studies, but at no point later than One Hundred Eighty (180) days following the Effective Date, Developer shall deliver a Due Diligence Investigation Conclusion Notice indicating the Developer's unconditional acceptance of the condition of the City Property and shall evidence the acceptance of the condition of the City Property by Developer in its existing "AS IS," "WHERE IS" and "SUBJECT TO ALL FAULTS" condition. Developer's unconditional and irrevocable acceptance of the City Property in the City Property's AS IS, WHERE IS, SUBJECT TO ALL FAULTS CONDITION, WITHOUT WARRANTY AS TO QUALITY, CHARACTER, PERFORMANCE OR CONDITION, including any warranty as to title, physical condition, soil conditions, the presence or absence of fill, subsurface support, zoning, land use restrictions, the availability or location of utilities or services, the location of any public infrastructure on or off of the City Property (active, inactive or abandoned), the suitability of the Site for the Project or other use or the existence or absence of Hazardous Substances ~~(excepting any Hazardous Substance Discharge by City)~~ and with full knowledge of the physical condition of the City Property, the nature of Developer's interest in and use of the City Property, all Laws applicable to the City Property, the Permitted Exceptions and any and all conditions, covenants, restrictions, encumbrances and all matters of record relating to the Site. Developer represents and warrants to City that: (a) Developer has had ample opportunity to inspect and evaluate the City Property and the feasibility of the uses and activities Developer is entitled to conduct on the City Property in accordance with this Agreement; (b) Developer is experienced in real estate development; (c) Developer is relying entirely on Developer's experience, expertise and its own inspection of the City Property in its current state in proceeding with acquisition of the City Property; (d) Developer accepts the City Property in its present condition including all environmental and hazardous material conditions on the property; and (e) to the extent that Developer's own expertise with respect to any matter regarding the City Property is insufficient to enable Developer to reach an informed conclusion regarding such matter, Developer has engaged the services of Persons qualified to advise Developer with respect to such matters. The Close of Escrow shall constitute Developer's representation and warranty to City that Developer has received assurances acceptable to Developer by means independent of the City of the truth of all facts material to Developer's acquisition of the City Property pursuant to this Agreement and that the City Property is being acquired by Developer as a result of its own knowledge, inspection and investigation of the City Property and not as a result of any representation made by the City relating to the condition of the Site, unless such statement or representation is expressly and specifically set forth in this Agreement. Except to the extent of any express representations and warranties of City specifically set forth in this Agreement (if any), City hereby expressly and specifically disclaims any express or implied warranties regarding the City Property.

3.13 Right of Entry.

(a) Right of Entry. City hereby grants to Developer and its authorized agents and contractors the nonexclusive right to enter upon the City Property (the "**Right of Entry**") to undertake the Approved Uses, defined below, only, and expressly for no other purposes without the prior written approval of the City Manager, which approval the City Manager may grant or deny in good faith to meet the objectives of this Agreement. "**Approved Uses**" shall mean that Developer and its contractors, employees, agents, assigns, experts and vendors have the right to enter onto the City Property for the purposes of (i) inspecting the City Property, (ii) performing

initial civil engineering studies including performing topographical and boundary surveys, (iii) obtaining soil samples, and (iv) performing environmental studies.

(b) Term of Right of Entry. This Right of Entry shall automatically terminate and expire on the first to occur of the following: (i) one-hundred eighty (180) days from the Effective Date of this Agreement, or (ii) upon the execution and delivery of title and possession of the City Property by City to HASLO (iii) upon the termination of the Agreement.

(i) It is expressly understood this Right of Entry does not in any way whatsoever grant or convey any rights of possession, easement or other interest in the City Property to Developer, at this point in time, or through this Right of Entry.

(ii) Under the terms of this Right of Entry, in no event shall Developer use the City Property in any manner beyond the scope of the Approved Uses. In the event Developer undertakes any other use at the City Property outside the scope of the described Approved Uses, this Right of Entry shall automatically terminate and Developer shall immediately vacate the City Property, shall have no further rights to enter the City Property for the Approved Uses and shall be liable and responsible to City for any and all damages, claims, and mechanics liens, if any, relating to the City Property.

(iii) All acts and things done by Developer on the City Property will be done in a careful and reasonable manner, in accordance with all applicable Federal, state and local laws.

(iv) Developer enters the City Property entirely at its own cost, risk and expense, and Developer acknowledges that City and its officers, employees, agents or contractors, have made no warranty or representation to Developer that the City Property, or any part thereof is safe or suitable for the intended purposes of the Approved Uses.

(v) Before Developer's entry upon the City Property and during the period of this Right of Entry, there shall be in effect policies of insurance in the amount set forth as required under Section 3.13.c herein.

(vi) Developer shall not permit any mechanics', materialmen's or other liens of any kind or nature to be filed or enforced against the City Property. If any such lien is filed against the City Property, Developer, within thirty (30) days after such filing, will either cause such lien to be lifted or will provide a bond in favor of City for the amount of the claim pursuant to which the lien is filed.

(vii) During the term of this Right of Entry, Developer shall maintain the City Property in a safe and good condition resulting from the entry and work thereon by Developer and Developer's contractors and agents. Developer will not be responsible for any conditions, damage, or injuries caused by a third party exercising the Right of Entry.

(c) Insurance Requirements. In connection with the right of entry granted to Developer under this Agreement, Developer shall present City with evidence of a general liability insurance policy with limits consistent with Section 5.3, below.

3.14 City Property Condition.

(a) Disclosure Regarding Condition of City Property. City hereby represents and warrants to Developer that, [acknowledging the City has done no environmental Level One or Two investigations or any investigation related to hazardous waste.](#) it has no Actual Knowledge of the presence of surface or subsurface Hazardous Materials in, on or under the City Property or any portion thereof except as may have been previously disclosed to Developer.

(b) Investigation. Developer, before the Close of Escrow and at its own sole expense, shall be responsible for obtaining an environmental investigation of the City Property performed by an environmental consultant within the period described in Section 3.12 above, and shall promptly provide City with a copy of all reports and test results provided by its environmental consultant.

(c) Precautions Before Closing. Before the Close of Escrow, City and Developer shall use commercially reasonable efforts to prevent the release into the environment of any Hazardous Materials that may be located in, on or under the City Property. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials.

(d) Hazardous Materials Indemnification by the Parties. Each Party agrees that before the Close of Escrow and HASLO also agrees after the Close of Escrow to indemnify, defend and hold the other Parties and its respective officers, employees, agents, representatives and volunteers harmless from and against any claim, action, suit, proceeding, damage, liability, deficiency, fine, penalty, or punitive damage (including, without limitation, reasonable attorneys' fees), resulting from, arising out of, or based upon (i) the release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the City Property, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about, to or from, the City Property. City shall be responsible for third parties dumping waste, including Hazardous Materials, on or about the City Property before the Close of Escrow.

4. **Project Financing.**

4.1 Project Construction Financing; Holders of Deeds of Trust. Following HASLO's transfer of the City Property to the Developer, Developer shall have the right to hypothecate its interest in the Project pursuant to deeds of trust from lenders for the purpose of securing a loan or loans of funds to be used for financing the costs of the Project. Any lender of record, other than City, holding a deed of trust security such as those whose name and address shall have been provided by Developer to City shall be referred to herein as a "**Holder**" and collectively as "**Holders**."

4.2 Rights of Holders. City shall deliver a copy of any notice or demand to Developer concerning any alleged breach or Default by Developer under this Agreement [or condition subsequent to the deed.](#) to each Holder. Such Holder shall have the right at its option

to cure or remedy any such breach or default and to add the cost thereof to the secured debt and the lien of its security interest. If such breach or default can only be remedied or cured by such Holder upon obtaining possession, such Holder may remedy or cure such breach or default within a reasonable period of time after obtaining possession, provided such Holder seeks possession with diligence through a receiver or, if not possible, then by nonjudicial foreclosure or deed in lieu of foreclosure. The Holder shall not be obligated by the provisions of this Agreement to construct or complete the Project or any portion thereof or to guarantee such construction or completion; nor shall any covenant or any other provision in this Agreement be construed so to obligate such Holder; provided, however, that (i) nothing in this Agreement shall be deemed to permit or to authorize such Holder to devote the Project or any portion thereof to any uses or to construct any improvements thereon other than those uses and improvements provided for or authorized in this Agreement and (ii) such Holder shall not undertake or continue the construction or completion of the improvements comprising the Project beyond the extent necessary to conserve or to complete the same without assuming Developer's obligations hereunder. Any Holder completing the Project shall have and be subject to all of the rights and obligations of Developer set forth in this Agreement, including the right to City's issuance of a Certificate of Occupancy for the Project. Failure of the Developer or Holder to complete the project as approved by the City and which is the subject of this Agreement, by _____, shall be considered a default by Developer under this Agreement and shall allow the City to exercise any and all rights under its Power of Termination related to the Grant Deed.

5. Development of the City Property.

5.1 Scope of Development.

(a) The Project. Developer shall use the City Property to develop the Project on the Site in accordance with the Scope of Development attached hereto as Attachment 2.

(b) Entitlement Approvals. The Property currently has a General Plan designation of Central Business Open (CBO) with a Planned Development Overlay for an affordable housing project. Developer shall be responsible for submitting to the City entitlement approvals necessary to develop and operate the Project, which may include an application for streamlined, ministerial review and approval under Government Code section 65913.4. Developer's application for streamlining, shall include and be consistent with Government Code Section 65941.

(c) Compliance with Environmental Laws; City Discretion Reserved.

(i) The Project is intended to be consistent with the General Plan and zoning designations for the Site, along with all applicable, objective development standards. Therefore, the Parties anticipate that the Project will qualify for streamlined, ministerial review consistent with Government Code section 65913.4. As a ministerial action, approval of the Project is exempt from the California Environmental Quality Act ("CEQA"), and City actions to approve this Agreement are likewise statutorily exempt from CEQA as provided in Government Code section 65913.4.ap

(ii) This Agreement is subject to completion and approval of an Environmental Review in accordance with the National Environmental Policy Act ("**NEPA**") and 24 CFR Part 58 by the governmental agency with jurisdiction over Developer's proposed Project (the "**Responsible Entity**"). This Agreement shall be conditioned upon the Responsible Entity's determination to proceed with, modify or cancel its financial participation in the Project based on the results of the NEPA Environmental Review. This condition shall be deemed to have been satisfied upon the issuance to the Responsible Entity of an Authority to Use Grant Funds by the City, County, State of California, Department of Housing & Community Development ("**HCD**"), U.S. Department of Housing and Urban Development ("**HUD**") or any other local state or federal agency participating in the Project. This condition will apply through the date of receipt by the Developer of the Authority to Use Grant Funds.

5.2 Cost of Construction. Unless otherwise expressly stated herein, all of the costs of planning, designing, developing and constructing the Project and all applicable improvements on the Site, and any improvements required by City conditions of approval, shall be borne solely by Developer.

5.3 Insurance Requirements. Developer shall obtain and maintain or shall cause its contractor to obtain and maintain, until the issuance of the final Certificate of Occupancy by City, a commercial general liability policy in the amount of Two Million Dollars (\$2,000,000) per occurrence, and a comprehensive automobile liability policy in the amount of One Million Dollars (\$1,000,000) per occurrence, or such other policy limits as City may reasonably approve, including contractual liability, as shall protect Developer and City from claims for such damages, and which policy shall be issued by an "A" rated insurance carrier. Such policy or policies shall be written on an occurrence form. Developer shall also furnish or cause to be furnished to City evidence reasonably satisfactory to City that Developer and any contractor with whom it has contracted for the performance of work on the Site or otherwise pursuant to this Agreement carries workers' compensation insurance as required by law. Developer shall furnish a certificate of insurance countersigned by an authorized agent of the insurance carrier on a form approved by City setting forth the general provisions of the insurance coverage. This countersigned certificate shall include City and its officers, employees, agents, representatives and volunteers as additionally insured Parties under the policy, and the certificate shall be accompanied by a duly executed endorsement evidencing such additional insured status. The certificate and endorsement by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by Developer shall be primary insurance and not be contributing with any insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of City.

5.4 Certificate of Occupancy. Promptly after completion of all construction and development required by this Agreement to be completed by Developer upon the Site (the "**Improvements**") in conformity with this Agreement, City shall furnish Developer with the "**Certificate of Occupancy**" upon written request by Developer. City shall not unreasonably withhold any such Certificate of Occupancy. The Certificate of Occupancy shall be a conclusive determination of satisfactory completion of the construction required by this Agreement upon the Site and the Certificate of Occupancy shall so state. The Certificate of Occupancy shall be in

such form as to permit it to be recorded in the Recorder's Office of the County. If City refuses or fails to immediately furnish a Certificate of Occupancy after a written request by Developer, City shall, within ten (10) days of a written request provide Developer with a detailed written analysis, which identifies each and every reason why the City refused or failed to furnish a Certificate of Occupancy. The statement shall also contain City's opinion of all the actions that Developer must undertake to obtain a Certificate of Occupancy. If the reason for such refusal is confined to the immediate availability of specific items of materials for landscaping, or other minor items relating to the completion of construction, City will issue its Certificate of Occupancy upon the posting of a bond or other security acceptable to City in City's reasonable discretion, in an amount representing a fair value of the work not yet completed.

5.5 Compliance With Laws. Developer shall carry out the design and construction of the Project in conformity with all applicable laws, including all applicable state labor standards and development standards.

6. Covenants and Restrictions.

6.1 Use of City Property. HASLO agrees to use the City Property solely to convey to Developer [for the purpose of developing the subject affordable housing project that is the subject of this Agreement](#). Developer agrees to devote, use, operate, and maintain the City Property in accordance with this Agreement. City's willingness and lawful authority to enter into this Agreement arises from Developer's agreed use of the City Property (i.e., Developer's agreement to construct and to implement the Project). [Developer and HASLO shall be subject to the Condition Subsequent and the Power of Termination of the Grant Deed and any hypothecation of the Property shall be subject to all of the conditions and obligations of the Grantee contained within the Grant Deed.](#)

6.2 Maintenance. Following issuance of the Certificate of Occupancy, Developer shall maintain or cause to be maintained the interiors and exteriors of the Project as required by the City Regulatory Agreement.

6.3 Nondiscrimination. Developer herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall Developer itself or any person claiming under or through it, 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 Project.

7. Default and Remedies.

7.1 Default Remedies. Subject to the extensions of time set forth in [Section 8.2](#) of this Agreement, failure by either Party to perform any action, condition, or covenant required by this Agreement within the time periods provided herein following written notice and failure to cure as described herein, constitutes a "**Default**" under this Agreement. A Party claiming a default shall give written Default Notice (the "**Default Notice**") to the other Party specifying and

detailing the particular default. The claimant shall not institute any proceeding against any other Party, and the other Party shall not be in default if a Party, within thirty (30) days from receipt of a Default Notice, cures such default, or if the nature of such default is that it cannot reasonably be expected to be cured within such thirty (30) day period, then the claimant shall not institute any proceeding against any other Party and the other Party shall not be in default if the Party receiving the Default Notice promptly commences to cure the default and thereafter completes such cure, correction or remedy with reasonable diligence. City hereby agrees that any cure of any default that is made or tendered by the investor limited partners or lenders of Developer shall be deemed to be a cure by Developer and shall be accepted or rejected on the same basis as if made or tendered by Developer. Upon expiration of an applicable Default Notice cure period, the non-defaulting Party may terminate this Agreement and pursue any and all remedies at law or in equity or City may exercise its rights of Power of Termination under the Grant Deed.

7.2 Termination by Developer. In the event Developer is not in Default under this Agreement, Developer may terminate this Agreement by written notice to City (and pursue its remedies for Default, if applicable) if ~~on or before the Outside Date~~ any of the following events occur:

- (a) City does not tender title to the City Property pursuant to the Grant Deed in the manner and condition and by the date provided in this Agreement, or
- (b) Developer's Conditions Precedent are not satisfied on or before the time required by this Agreement; or
- (c) Default of City before the Outside Date that is not cured within the time set forth herein after written demand by Developer.

7.3 Termination by City. In the event City is not in Default under this Agreement, City may terminate this Agreement by written notice to Developer (and pursue its remedies for Default, if applicable, including pursuing its Power of Termination in accordance with the Deed) if ~~on or before the Outside Date~~ any of the following events occur:

- (a) City's Conditions Precedent are not satisfied on or before the time required by this Agreement.
- (b) Developer is otherwise in Default of this Agreement and fails to cure such Default within the time set forth herein.

~~(b)~~ (c) Developer fails to comply with the condition subsequent of the Deed.

7.4 Acceptance of Service of Process. In the event that any legal action is commenced by Developer against City or City under this Agreement, service of process on City or City shall be made by personal service upon the City Clerk in such other manner as may be provided by law. In the event that any legal action is commenced by City against Developer under this Agreement, service of process on Developer shall be made by personal service upon the President of People's Self-Help Housing and the Executive Director of HASLO, or in such other manner as may be provided by law.

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7.5 Rights and Remedies Are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

7.6 Inaction Not a Waiver of Default. Any failures or delays by either Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

8. General Provisions.

8.1 Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice ("**Notice**"), which either Party may desire to give to the other Party under this Agreement must be in writing and may be given by the means described below 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.

City: City of Grover Beach
154 South Eighth Street
Grover Beach, CA 93433
Attn: Matt Bronson, City Manager

Developer: ~~FBD~~Cleaver & Clark Commons, L.P.
c/o Cleaver & Clark Commons LLC
3533 Empleo Street
San Luis Obispo, CA 93401
Attn: Ken Trigueiro, CEO & President

With copy to: People's Self-Help Housing
3533 Empleo Street
San Luis Obispo, CA 93401
Attn: Ken Trigueiro, CEO & President

and

Housing Authority of San Luis Obispo
487 Leff Street
San Luis Obispo, CA 93401
Attn: Scott Smith, Executive Director

HASLO: Housing Authority of San Luis Obispo
487 Leff Street
San Luis Obispo, CA 93401
Attn: Scott Smith, Executive Director

Any written notice, demand or communication sent to the address set forth above or as later provided by a Party shall be deemed effective and received as of the date of delivery, the date delivery was refused, or the date returned as undeliverable if sent by one of the following methods: (1) personal delivery with a written receipt therefore; (2) certified mail, return receipt requested; or (3) nationally recognized overnight delivery service (i.e., FedEx, UPS, or DHL) with a delivery receipt.

Copies of all notices delivered by City to Developer after the Close of Escrow shall be delivered to Developer's investor limited partner at a notice address to be provided to City in writing.

8.2 Force Majeure Delays; Extension of Times for Performance. All performance deadlines in this Agreement shall be extended to the extent of delays caused beyond the control or without the fault of the Party claiming an extension of time to perform, including, without limitation, the following: war; acts of terrorism; insurrection; strikes; lockouts; labor troubles; inability to procure materials; power failures; riots; floods; earthquakes; fires; other natural disasters; casualties; acts of God; epidemics; pandemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; governmental moratoria; initiation of condemnation proceedings by any governmental agency; and unreasonable acts or unreasonable failures to act of City or any other public or governmental Agency or entity (determined considering the normal processes and response times of City and such governmental entities, which shall be deemed reasonable and not force majeure delays). Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay only and shall commence to run from the time of the commencement of the cause, and only if notice by the Party claiming such extension is sent to the other Party within thirty (30) days after the commencement of the cause.

8.3 Transfers of Interest in Site or Agreement.

(a) Prohibition. The qualifications and identity of Developer are very important and of particular concern to City. Because of those qualifications and identity, City has entered into this Agreement with Developer. Except as provided in Section 8.3.b, below, no voluntary or involuntary successor in interest of Developer shall, before the issuance of the Certificate of Occupancy, (i) acquire any rights or powers under this Agreement, (ii) make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the whole or any part of the City Property or Project without the prior written approval of the City Manager, in its reasonable discretion.

(b) Permitted Transfers. Notwithstanding any other provision of this Agreement to the contrary, City approval of an assignment of this Agreement or conveyance of the City Property or Project, or any part thereof, shall not be required in connection with any of the following:

(i) The granting of reasonable easements or permits to facilitate construction of the Project.

(ii) The granting of security interests in the Project and this Agreement to a Holder for a loan permitted by this Agreement, and the transfer of title by foreclosure, deed or other conveyance in lieu of foreclosure in connection with such security interest.

(iii) The conveyance of any interest in the Project after the issuance of both a Certificate of Occupancy by City.

(iv) The transfer to the Developer from HASLO.

(v) The admission of an affiliate of HASLO and/or People's ~~Self~~ HelpSelf-Help Housing to the Developer's limited partnership as managing general partner.

(vi) The admission of limited partners to the Developer's limited partnership in connection with tax credit financing, and any subsequent transfer of such limited partnership interests, including any transfer of stock or equity in the limited partners that does not change management or operational control of the Project, with no material change in beneficial ownership (with the exception of any conveyance to member(s) of the immediate family(ies) of the transferor(s) or trusts for their benefit) and which constitutes a tax-free transaction under Federal income tax law and California real estate transfer tax.

(vii) The removal for cause of any general partner in the Developer by a limited partner of the Developer, and the replacement thereof.

(viii) The lease for occupancy of all or any part of the Project in accordance with this Agreement and the City Regulatory Agreement.

(ix) The lease of residential units in the Project consistent with the Regulatory Agreement.

(x) Transfer of the Project to the Developer or an affiliate thereof in accordance with the Right of First Refusal or Purchase Agreement entered into in connection with any tax credit financing.

(*) Although any transfer defined within this section does not require City approval, any transfer, if applicable, shall be subject to the Grant Deed's condition subsequent and Powers of Termination.

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8.4 Non-Liability of Officials and Employees. No officer or employee of City shall be personally liable to the Developer of HASLO, or any successor-in-interest, in the event of any default or breach by City or for any amount which may become due to the Developer, HASLO, or to its successor, or for breach of any obligation of the terms of this Agreement. No officer or employee of Developer or HASLO shall be personally liable to the City in the event of any default or breach by Developer or HASLO for any amount which may become due to the City, or for breach of any obligation of the terms of this Agreement.

8.5 Relationship Between Parties. It is hereby acknowledged that the relationship between City on the one hand and Developer on the other hand is not that of a partnership or joint venture and that City and Developer shall not be deemed or construed for any purpose to be

the agent of the other. It is further acknowledged that the relationship between City on the one hand and HASLO on the other hand is not that of a partnership or joint venture and that City and HASLO shall not be deemed or construed for any purpose to be the agent of the other.

8.6 Approvals, Actions and Authority of the City Manager. The City Manager shall have the authority to make approvals, issue interpretations, waive minor provisions, enter into minor amendments of this Agreement, and sign and approve escrow documents and additional documents, on behalf of City, respectively, so long as such actions do not materially or substantially change the uses or development permitted on the Site, or materially or substantially add to the costs incurred or to be incurred by City as specified herein. Such actions which may be approved include extensions of time to perform and extensions of the Outside Date.

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

8.8 Integration. This Agreement contains the entire understanding between the Parties relating to the transaction contemplated by this Agreement. 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. This Agreement supersedes the Exclusive Right to Negotiate ("ENA") between the Parties dated September 26, 2020, and such ENA shall have no further force or effect. Each Party is entering this Agreement based solely upon the representations set forth herein and upon each Party's own independent investigation of any and all facts such Party deems material. This Agreement includes Attachment Nos. 1 through 4, which are incorporated herein and together with the Agreement constitute the entire understanding and agreement of the Parties.

8.9 No Real Estate Brokerage Commissions. City and Developer each represent and warrant to the other that no broker or finder is entitled to any commission or finder's fee in connection with this transaction, and Developer and City agree to defend and hold each other harmless from any claim to any such commission or fee resulting from any action on its part.

8.10 Attorneys' Fees. In any action between the Parties to interpret, enforce, reform, modify, rescind or that otherwise relates to any of the terms or provisions of this Agreement, the prevailing Party in the action shall be entitled, in addition to damages, injunctive relief or any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, expert fees, litigation costs and reasonable attorneys' fees.

8.11 Titles and Captions. 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 of any of its terms. References to section numbers are to sections in this Agreement, unless expressly stated otherwise.

8.12 Interpretation and Applicable Law. 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. This Agreement shall be interpreted as though prepared jointly by all Parties. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

8.13 No Waiver. A waiver by a Party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other Parties shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

8.14 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.

8.15 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.

8.16 Legal Advice. Each Party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or their respective agents, employees or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

8.17 Time of Essence. Time is of the essence with respect to the performance by City, HASLO, and Developer of each and every obligation and condition of this Agreement in which time is a factor.

8.18 Cooperation. Each Party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Agreement including, but not limited to, releases or additional agreements.

8.19 Conflicts of Interest. Developer and HASLO acknowledge that no officer or employee of City has or shall have any direct or indirect financial interest in this Agreement nor shall Developer or HASLO enter into any agreement of any kind with any such officer or employee during the term of this Agreement and for one year thereafter. Developer and HASLO warrant that Developer or HASLO have not paid or given, and will not pay or give, any third party any money or other consideration in exchange for obtaining this Agreement.

[Signature Page Follows.]

IN WITNESS WHEREOF, Developers and City have executed this Agreement as of the Effective Date.

CITY:

**CITY OF GROVER BEACH,
a California municipal corporation**

By: _____
Name: _____
Title: _____

DEVELOPER:

**[~~TBD~~CLEAVER & CLARK COMMONS, L.P.],
a California limited partnership**

By: Cleaver & Clark Commons LLC,
a California limited liability
company, its managing general
partner

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By: People's Self-Help Housing
Corporation, a California
nonprofit public benefit
corporation, its sole
member/manager

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By: _____
Kenneth Triguero,
Chief Executive Officer and
President

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By: San Luis Obispo Nonprofit Housing
Corporation, a California nonprofit
public benefit corporation, its
administrative general partner

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By: _____
Ken Litzinger,
Chief Financial Officer

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By: _____

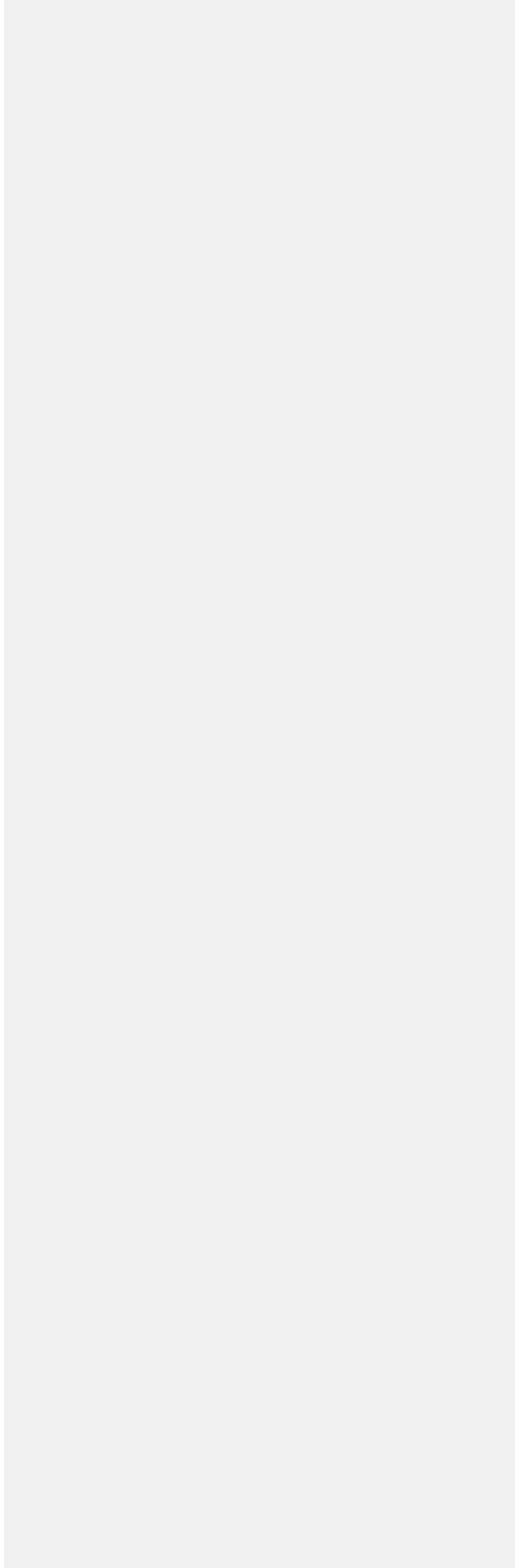
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Name: _____
Title: _____

HASLO:

**HOUSING AUTHORITY OF THE CITY OF
SAN LUIS OBISPO,
a California public agency**

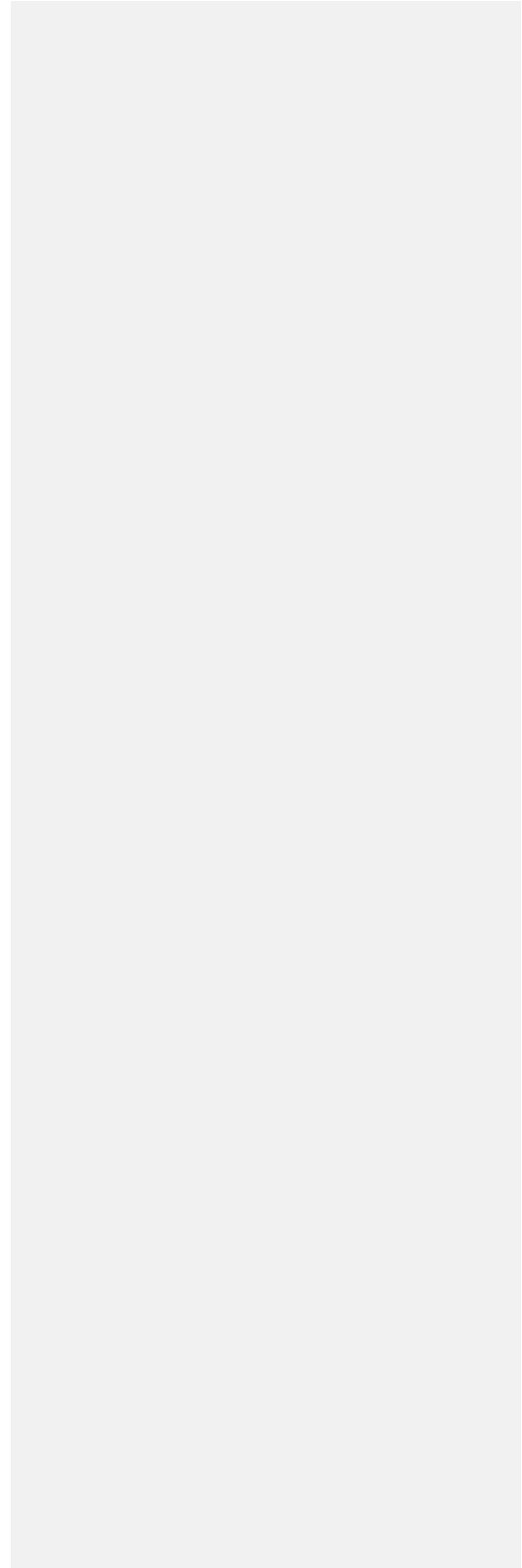
By: _____
Name: _____
Title: _____



ATTACHMENT 1
Site Legal Description

A: City Property Legal Description

B: Adjacent Property Legal Description



ATTACHMENT 2
Scope of Development

Through use of the Adjacent Property, the Project could include approximately 53 units of multi-family rental housing with a mix of 1bd, 2bd and 3bd units and amenities which may include features such as a multi-purpose community center; landscaped recreational open space including BBQ picnic areas and playground space; and on-grade parking.

ATTACHMENT 3
Form of Regulatory Agreement

[See attached.]

