

CITY OF SEBASTOPOL CITY COUNCIL
AGENDA ITEM REPORT FOR MEETING OF: July 16, 2024

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To: Honorable Mayor and City Councilmembers
From: David Woltering, Interim Planning Director
Subject: Consider an Ordinance Approving a Development Agreement for Hotel Sebastopol

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RECOMMENDATION:

Staff Recommends Approval of Second Reading and Adoption of the Ordinance Approving a Development Agreement for Hotel Sebastopol, including the Requirement for the Developer to Provide an Annual Review of the Agreement

INTRODUCTION

This item was considered by the City Council at its meeting on July 2, 2024. At that meeting, the City Council approved the Introduction and First Reading of the Ordinance. The Ordinance and Development Agreement address the following:

- Provide for the extension of the Project approvals for three years from the effective date of the subject Ordinance;
- Incorporate the previously approved Fee Reduction/Fee Deferral Agreement which the City Council approved in 2018;
- Incorporate requirements that the Developer maintain the site in good order while vacant and, if construction commences and the project does not get completed, returns the site to its natural state; and,
- Incorporate the requirements of Sebastopol’s Code and State Law related to Development Agreements, including that the Agreement be reviewed on a yearly basis, as affirmed by the City Council at its July 2, 2024 hearing on this matter.

BACKGROUND AND DISCUSSION

The “Hotel Sebastopol” development, a proposed 66-room boutique hotel with many amenities, at 6828 Depot Street, with a parking area across Brown Street at 215 and 225 Brown Street, was approved in 2017. The owners have proceeded with multiple entitlements since that time, including receiving a building permit which is currently active. The owners are requesting a Development Agreement with the City to extend the life of the building permit (which vests the planning entitlements), given the project applicants are pursuing federal funding, a USDA construction loan through the Small Business Administration (SBA), and a related archeological review to procure this financing which is yet to be secured. By extending the permit and entitlements, preventing their expiration, the developer will not have to start over again and repay approximately \$500,000 in permit and development fees paid to date.

The Development Agreement requires review and recommendation by the Planning Commission which occurred in April and May of this year, and approval by the City Council. The project has been delayed because of the COVID pandemic, which had a particularly devastating impact on the hospitality sector, and high interest rates at this time. The project offers the City of Sebastopol beneficial activity in its downtown area and significant ongoing revenue, including transient occupancy tax (TOT), sales taxes, and property taxes.

STAFF ANALYSIS:

The Project itself was found to be consistent with the General Plan when approved, with no significant changes in General Plan policy that would reverse this determination. The approval of a Development Agreement allows for

the project approvals to remain in place, subject to the original findings and conditions of approval, for a period of three years from the effective date of the approval. The attached Development Agreement is consistent with the Municipal Code Section 17.440 as well as State law.

Environmental Review:

The project was originally approved subject to a Mitigated Negative Declaration in accordance with the requirements of the California Environmental Quality Act (CEQA). This approval is still valid.

Staff Recommendation:

Staff believes the proposed Ordinance with Development Agreement to extend the time of the project approvals meets the requirements for approval, and acknowledges approval of the request subject to provisions in the Ordinance, including the following:

- Three-year extension, with annual reports to the City;
- Continuation of the Fee Agreement previously approved in 2018; and,
- Requirements for site maintenance.

COMMUNITY OUTREACH:

This item has been noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

No public comments have been received as of the writing of this staff report.

FISCAL IMPACT:

In 2018, the City of Sebastopol approved a Fee Reduction/Fee Deferral Agreement for this project which would continue to be in place with approval of the Ordinance and is an exhibit within the attached Development Agreement. This Agreement reduced the Building Plan Check fee by \$40,410.24 (this process is completed). It also reduced the Water Connection fee by \$15,226 and Sewer Connection fee by \$13,678 in recognition that the project will be a LEED Certified, CalGreen certified project with water use reduced 35% over base water as set by CalGreen. The Agreement also provides for a deferral of impact fees for Traffic, Parks, and Housing Linkage fees in the amount of \$329,471.69 (Traffic: \$61,775.31; Park in lieu: \$171,600.; and Housing Linkage: \$96,066.38) to the sooner of either 1) Average Occupancy exceeding 75% occupancy for three months, or 2) one year after occupancy, and provides for these fees to be paid off in monthly installments over five years thereafter. It should be acknowledged, however, that the costs for all Planning Entitlements and Building Permit Fees, exceeding \$500,000, have been paid as the project has progressed and are not part of the fee deferral. Should the current permits and entitlements expire the applicant or future applicant would need to start the process over again and repay these fees.

Overall, it is important to note that as the Hotel Sebastopol project would be constructed and occupied, there is potential substantial direct revenue to the City of Sebastopol annually in transient occupancy tax (TOT), sales tax, and property tax, plus indirect revenue from the hotel guests spending money during their visits in the community. This project represents an opportunity for a long-term fiscal benefit to the City of Sebastopol.

ATTACHMENTS:

1. Ordinance with Development Agreement as Exhibit A

APPROVALS:

Department Head Approval:	Approval Date: July 8, 2024
CEQA Determination (Planning):	Approval Date: July 8, 2024

CEQA Determination: Approval of the Development Agreement would not change any of the project impacts analyzed in the original CEQA documentation and approval, as no changes are proposed as part of the agreement other than the length of project approval and building permit approval. The Development Agreement is, therefore, exempt from further review under CEQA Guidelines Section 15162, which states that no subsequent CEQA review required as the Agreement meets the criteria of Section 15162.

Administrative Services (Financial) Approval Date: July 8, 2024

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable) _____

City Attorney Approval: Approval Date: N/A

City Manager Approval: Approval Date: July 8, 2024

City of Sebastopol
Ordinance No. 1150

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL
ADOPTING A DEVELOPMENT AGREEMENT WITH MV HOTEL SEBASTOPOL LLC

1. Whereas, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 et seq. (the "Development Agreement Statute") which authorizes cities to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and,
2. Whereas, MV HOTEL SEBASTOPOL LLC ("Developer") applied to the City for approvals necessary for a small, design-oriented boutique hotel with 66-rooms. The Hotel Project (the "Project") was proposed to operate 24 hours a day, 7 days a week, year-round and include a lobby and reception area, retail, artist/maker studios, restaurant, bar, lounge, wellness center, public courtyard, private gardens, outdoor rooftop decks, meeting rooms, and other hotel amenities; and
3. Whereas, the Project has been the subject of several previous approvals by the City including:
 - a. On September 27, 2016, the City adopted a Mitigated Negative Declaration ("MND") under the California Environmental Quality Act ("CEQA") for the Project. (File 2016-057)
 - b. On September 27, 2016, the City also approved a Use Permit, Alcohol Use Permit, and Variance for the Project, subject to certain conditions of approval. (File 2016-057)
 - c. On January 17, 2017, the City approved Design Review for the Project. (File 2016-057)
 - d. On February 7, 2017, the City adopted Ordinance 1098, approving a Zoning Ordinance Amendment to increase the height limit in the Downtown Core Zoning District, which was requested by the Developer and required for the Project. Ordinance 1098 went into effect on March 9, 2017. (File 2016-057)

- e. On October 3, 2018, the City approved the Public Art proposal for the Project to meet the Public Art Ordinance. (File 2016-103)
 - f. On November 11, 2018, the City and Developer entered into a Fee Reduction/Fee Deferral Agreement. Through the Fee Reduction/Fee Deferral Agreement, the City agreed to reduce certain development impacts fees payable by the Project and to defer collection of certain fees until the date of final inspection of the Project.
 - g. On December 17, 2018, the City approved a Lot Merger for the parking lot parcels for the Project. (File 2018-094)
 - h. On April 3, 2019, the City approved amendments to the Project's Design Review approval. (File 2019-016)
 - i. On September 24, 2019, the City approved an extension to the Project's Use Permits. (File 2019-076)
 - j. On September 29, 2022, the City issued a Building Permit for the Project. The Building Permit is still valid.
 - k. On December 12, 2023, the City approved an additional Lot Merger for the Project. (File 2023-059); and
4. Whereas, the City prepared an Initial Study for the Project, which indicated that an MND would be the appropriate document for the Project under CEQA and approved the Initial Study/MND on September 27, 2016; and
 5. Whereas, the Town's Planning Staff recommended the proposed Development Agreement as the proper mechanism to facilitate construction of the Project; and
 6. Sections 17.440.070 – 17.440.090 of the Sebastopol Municipal Code requires the City Council to approve development agreements, after the Planning Commission makes a recommendation on the development agreement; and
 7. Whereas, on April 16, 2024, and on May 28, 2024, the Planning Commission held duly noticed public hearings pursuant to Government Code § 65867 at which the Planning Commission considered all testimony, both oral and written, regarding the proposed Development Agreement; and

8. WHEREAS, after closing the public hearing and discussing the Development Agreement on May 28, 2024, the Planning Commission voted to recommend that the City Council approve the Development Agreement; and
9. Whereas, on July 2, 2024, the City Council conducted a duly noticed public hearing, considered all testimony, both oral and written, regarding the proposed Development Agreement, deliberated, and reviewed the Development Agreement.
10. Whereas, on July 16, 2024, the City Council approved the Development Agreement.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are hereby declared to be true and correct and represent the findings of the City Council of the City of Sebastopol. Said findings are incorporated by this reference.

Section 2. Development Agreement Findings.

The City Council hereby finds and determines as follows:

- a. In accordance with Sections 17.440.070 and 17.440.090 of the Sebastopol Municipal Code, the Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan.
- b. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the district in which the real property is located.
- c. The Development Agreement conforms to public convenience, general welfare and good land use practices.
- d. The Development Agreement will not be detrimental to the health, safety and general welfare.
- e. The Development Agreement will not adversely affect the orderly development of property.
- f. The Development Agreement will provide sufficient benefit to the City to justify entering into the agreement.

Section 3. Based on the findings set forth in this Ordinance, and the evidence in the Planning Commission recommendations, the Staff Report and accompanying documents, the City Council approves the Development Agreement attached hereto as Exhibit A and incorporated herein fully, subject to such minor and clarifying changes consistent with the terms thereof as may be approved by the City Attorney prior to execution thereof.

Section 4. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance for any reason shall be held to be invalid or unconstitutional, the decision shall not affect the remaining portions of this ordinance. The City Council of the City hereby declares that it would have passed this ordinance and each article, section, subsection, paragraph, sentence, clause or phrase which is a part thereof,

irrespective of the fact that any one or more articles, sections, subsections, paragraphs, sentences, clauses or phrases are declared to be invalid or unconstitutional.

Section 5. Effective Date. This ordinance shall become effective thirty (30) days after its adoption.

Approved for First Reading and Introduction on this 2nd day of July 2024.

Approved for Second Reading and Approval on the 16th day of July 2024.

VOTE:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: _____

Mayor Diana Gardner Rich

ATTEST: _____

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____

City Attorney

EXHIBIT A

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Sebastopol
7120 Bodega Ave.
Sebastopol, CA 95473
Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF SEBASTOPOL

AND

PIAZZA HOSPITALITY GROUP

DEVELOPMENT AGREEMENT

This Development Agreement (“Agreement”) is made and entered into between the **CITY OF SEBASTOPOL**, a municipal corporation (“City”), and **MV HOTEL SEBASTOPOL LLC**, a California Limited Liability Corporation (“Developer”). City and Developer are hereinafter collectively referred to as the “Parties” and singularly as “Party.”

RECITALS

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

B. **The Project**. Developer applied to the City for approvals necessary for a small, design-oriented boutique hotel with 66-rooms. The Hotel Project (the "Project") was proposed to operate 24 hours a day, 7 days a week, year-round and include a lobby and reception area, retail, artist/maker studios, restaurant, bar, lounge, wellness center, public courtyard, private gardens, outdoor rooftop decks, meeting rooms, and other hotel amenities.

C. **Previous approvals**. The Project has been the subject of several previous approvals by the City including:

1. On September 27, 2016, the City adopted a Mitigated Negative Declaration ("MND") under the California Environmental Quality Act ("CEQA") for the Project. (File 2016-057)
2. On September 27, 2016, the City also approved a Use Permit, Alcohol Use Permit, and Variance for the Project, subject to certain conditions of approval. (File 2016-057)
3. On January 17, 2017, the City approved Design Review for the Project. (File 2016-057)
4. On February 7, 2017, the City adopted Ordinance 1098, approving a Zoning Ordinance Amendment to increase the height limit in the Downtown Core Zoning District, which was requested by the Developer and required for the Project. Ordinance 1098 went into effect on March 9, 2017. (File 2016-057)
5. On October 3, 2018, the City approved the Public Art proposal for the Project to meet the Public Art Ordinance. (File 2016-103)
6. On November 6, 2018, the City and Developer entered into a Fee Reduction/Fee Deferral Agreement. Through the Fee Reduction/Fee Deferral Agreement, the City agreed to reduce certain development impacts fees payable by the Project and to defer collection of certain fees until the date of final inspection of the Project.
7. On December 17, 2018, the City approved a Lot Merger for the parking lot parcels for the Project. (File 2018-094)

8. On April 3, 2019, the City approved amendments to the Project's Design Review approval. (File 2019-016)

9. On September 24, 2019, the City approved an extension to the Project's Use Permits. (File 2019-076)

10. On September 29, 2022, the City issued a Building Permit for the Project. The Building Permit is still valid.

11. On December 12, 2023, the City approved an additional Lot Merger for the Project. (File 2023-059).

D. **Environmental Review**. The City prepared an Initial Study for the Project, which indicated that an MND would be the appropriate document for the Project under CEQA. The City approved the Initial Study/MND on September 27, 2016.

E. **Public Benefits**. Development of the Project will result in significant public benefits, as more fully described hereinafter, including, without limitation:

1. The provision of opportunities for employment; and
2. The furtherance of the economic development goals and objectives of the

City.

F. **Developer Assurances**. In exchange for the benefits to the City in the preceding Recitals, together with the other public benefits that will result from the development of the Property, Developer will receive by this Agreement assurance that it may proceed with the Project in accordance with the items set forth herein.

G. **Consistency with General Plan**. Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City found that this Agreement satisfies the Government Code section 65867.5 requirement of General Plan consistency.

NOW, THEREFORE, in consideration of the above Recitals and mutual promises, conditions and covenants of the Parties contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

DEFINITIONS

1. **Definitions**. In this Agreement, unless the context otherwise requires, terms have the following meaning. Capitalized terms within the Exhibits not defined below have the meaning set out in the Exhibits.

1.1 "Adopting Ordinance" means Ordinance No. 1150, adopted by the City Council on July 16, 2024, which approves this Development Agreement as required by the Development Agreement Law.

1.2 "Agreement" means this Development Agreement, inclusive of all Exhibits attached hereto.

1.3 "Alcohol Use Permit" means the Alcohol Use Permit approved by the City September 27, 2016 and extended by the City on September 24, 2019.

1.4 "Building Permit" means the Building Permit approved by the City for the Project on September 29, 2022.

1.5 "CEQA" means the California Environmental Quality Act, as set forth at California Public Resources Code, Division 13, commencing at Section 21000 and the CEQA Guidelines as set forth in Title 14 of the California Code of Regulations commencing at Section 15000.

1.6 "City" means the City of Sebastopol, including its agents, officers, employees, representatives and elected and appointed officials.

1.7 "City Manager" means the City Manager of the City of Sebastopol, or his or her designee.

1.8 "Collective Standards" means: (i) the provisions of this Agreement; (ii) the Project Approvals; (iii) land use entitlement and approvals to the Project and the Property that may be granted following the Effective Date; and (iv) the Land Use Regulations.

1.9 "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of an entity's management or policies, whether through the ownership of voting securities, by contract, or otherwise.

1.10 "Design Review Approval" shall mean the Design Review approval for the Project by the City on January 17, 2017 and amendments approved by the City on

1.11 "Development Agreement Law" means Government Code section 65864 et seq.

1.12 "Developer" means MV Hotel Sebastopol LLC, a California limited liability corporation, together with any Successor duly approved by the City in accordance with the terms of this Agreement.

1.13 "Effective Date" means that day on which the Adopting Ordinance shall be effective. The Adopting Ordinance shall be effective thirty (30) days after its adoption by the City Council, unless the Adopting Ordinance becomes subject to a qualified referendum, in which case, the Effective Date shall be the day after the referendum election, if the Adopting Ordinance is approved by a majority of the voters. Litigation filed to challenge the Adopting Ordinance or this Agreement shall not affect the Effective Date, absent a court order or judgment overturning or setting aside the Adopting Ordinance, or staying the Effective Date, or remanding the Adopting Ordinance to the City. Notwithstanding the foregoing, this Agreement shall not become effective until fully executed.

1.14 "Facility" means the physical improvements to the Property used by Developer for the conduct of its operations.

1.15 "Fees" means all charges, expenses, costs, monetary exactions and any other monetary obligations imposed on Developer by the City, other than assessments or regular or special taxes and shall not be limited to fees paid pursuant to this Agreement.

1.16 "Fee Reduction/Fee Deferral Agreement" means the Fee Reduction/Fee Deferral Agreement entered into by the City and Developer on November 11, 2018 and attached hereto as **Exhibit A**.

1.17 "General Plan" means the General Plan of the City including the text and maps, plus any other General Plan amendments approved by the City on or before the Effective Date.

1.20 "Land Use Regulations" means the ordinances, resolutions and regulations applicable to the Project, to the extent they govern the permitted uses of land, and the density and intensity of land use, as set forth in the following plans and ordinances as they exist on the Effective Date, or as they may be later amended:

1.20.1 The General Plan; and

1.20.2 The City of Sebastopol Zoning Code.

1.21 "Law" means the case law, ordinances, statutes, rules, regulations, or any order, decree or directive of any court or any local, regional, state or federal government agency, unless the context suggests a different meaning.

1.22 "Municipal Code" means the Municipal Code of the City of Sebastopol.

1.23 "Planning Commission" means the City of Sebastopol Planning Commission.

1.24 "Project" means the physical improvement of the Property with building(s) and use of the Property as approved by the City through the Project Approvals.

1.25 "Project Approvals" means the entitlements that are the subject of this Agreement and incorporated herein by reference, consisting of the following approvals:

1.25.1 The Alcohol Use Permit;

1.25.2 The Use Permit;

1.25.3 The Design Review Approval;

1.25.4 The Variance;

1.25.5 The Fee Reduction/Fee Deferral Agreement;

1.25.6 The Building Permit; and

1.25.7 This Development Agreement, as adopted on July 16, 2024, by City Ordinance No. 1150 (the "Adopting Ordinance").

1.26 "Property" that certain real property within the City as more particularly described in **Exhibit B**.

1.27 "Safe Condition" means free from any natural or man-made hazards to persons or property and free from any conditions giving rise to a public or private nuisance. Conditions considered unsafe include, but are not limited to: exposed trenches or excavation pits, exposed

electrical wiring or pipes, unfinished buildings, unsecure buildings, attractive nuisances, trash, graffiti, vandalism, etc.

1.28 "Successor" or "Successor in Interest" means any subsequent entity or individual that acquires all or any portion of Developer's interest in the Property; provided, however, that no Successor shall acquire any rights pursuant to this Agreement unless and until that Successor is approved by the City and complies with all applicable requirements of Section 15.1 of this Agreement.

1.29 "Use Permit" means the Use Permit for the Project approved by the City on September 27, 2016 and extended by the City on September 24, 2019.

1.30 "Variance" means the Variance approved by the City for the Project on September 27, 2016.

AGREEMENT

1. **Incorporation of Recitals.** The Recitals and all defined terms set forth above are hereby incorporated into this Agreement as if set forth herein in full.

2. **Description of the Project.** The Project consists of the construction and operation of the Project as more fully described in the Project Approvals. Developer shall ensure that the Facility is operated in accordance with the conditions set forth in the Project Approvals as well as all applicable local, state, and federal laws.

3. **Description of Property.** The Property, which is the subject of this Agreement, is defined in Section 1.26.

4. **Relationship of City and Developer.** This Agreement is a contract that has been negotiated and voluntarily entered into by City and Developer. It is agreed among the parties that the Project is a private development and that the relationship of the City and Developer is and at all times shall remain solely that of the City as a regulatory body and the Developer as the owner of the Property. The City and Developer hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Developer joint venturers or partners.

5. **Representations, Warranties and Acknowledgments.**

5.1 **Interest in Property.** Developer represents and warrants that as of the Effective Date, October 26, 2016, is the owner of the Property identified as 6828, 6826, 6824 Depot Street (the hotel site) and as such holds fee title interest in and to the Property and as of the Effective Date, November 10, 2016, is the owner of the Property identified as 215 & 225 Brown Street (the parking site) and as such holds fee title interest in and to the Property.

5.2 **Authority.** The Parties represent and warrant that the persons signing this Agreement are duly authorized to enter into and execute this Agreement on behalf of their respective principals.

5.3 **Brokers.** The Parties agree that the City has had no dealings with any real estate broker or agent in connection with the negotiation of this Agreement, and that they know of no

other real estate broker or agent who is entitled to a commission in connection with this Agreement. In the event any real estate broker or agent shall come forward and claim the right to a commission or other form of compensation in connection with this Agreement, Developer shall indemnify, defend and hold harmless the City in accordance with Section 14.1.

5.4 **Procedures and Requirements.** The Parties acknowledge that this Agreement is subject to the procedures for approval, amendment and administration set forth in the Development Agreement Law.

6. **Effective Date and Term.**

6.1 **Effective Date.** The effective date of this Agreement means the date defined at Section 1.13 of this Agreement.

6.2 **Term.** The term of this Agreement shall commence on the Effective Date and shall continue in force until the first to occur of the following events: 1) this Agreement is terminated in accordance with terms set forth herein; 2) Developer no longer has a legal interest in the Property and has ceased all operations on the Property; or 3) three (3) years from the Effective Date of this Agreement.

6.3 **Termination by Mutual Consent.** This Agreement may be terminated in whole or in part by the mutual written consent of all the Parties.

6.4 **Termination Resulting from Governmental Action.** In the event legal action is initiated or threatened by any governmental jurisdiction, other than the City, on the grounds that approval or implementation of this Agreement (or any part) constitutes a violation of state or federal law, and the parties are unable to reach agreement between themselves and the governmental jurisdiction on amendments to this Agreement that will resolve the dispute and still preserve the material terms of this Agreement, then either party may terminate this Agreement without compliance with the Default Procedures set forth in Section 13. If this Agreement is terminated pursuant to this section, Developer shall immediately cease operations at the Facility, the Conditional Use Permit shall be automatically terminated, and the Parties shall have no further rights or obligations under this Agreement (other than the rights under Sections 10 and 14, which survive termination.)

6.5 **Termination Upon Surrender or Revocation of Use Permit.** If the Developer voluntarily surrenders the Use Permit, or if the Use Permit is revoked by the City, then Developer shall immediately cease operations at the Property and this Agreement shall terminate automatically, without further action required by either party. In such an event, Developer waives the default procedures set forth in Section 13 of this Agreement, including the notice and cure rights contained therein, and the Parties shall have no further rights or obligations under this Agreement (other than the rights under Sections 10 and 14, which survive termination).

6.6 **Effect of Termination.** This Agreement was entered into by the Parties for the limited purpose of setting forth certain terms and conditions concerning the proposed development and operation of the Project in a manner that is consistent with the Project Approvals and the Collective Standards. Accordingly, nothing contained herein is intended or shall be construed to grant to Developer any rights in connection with the future development or operations of the Property, except for those rights set forth in the Collective Standards and in this Agreement.

7. **Development of the Project.**

7.1 **Development Rights.** This Agreement was entered into by the Parties for the limited purpose of setting forth certain terms concerning the development and use of the Property by Developer. Accordingly:

7.1.2 Nothing contained herein is intended or shall be construed to grant to Developer any rights in connection with the future development or use of the Property, and the Parties agree that development and use of the Property shall be governed by the land use and other regulations in effect at the time of development and operation. Development and use shall be subject to the terms set forth in any subsequent approvals needed for development.

7.1.3 The permitted uses of the Property, the density and intensity of use, the maximum height and size of buildings, or the reservation or dedication of land for public purposes and other terms and conditions of development applicable to the Property shall be governed by the Project Approvals, this Agreement, the Collective Standards and all other entitlements and ordinances now existing or which may be amended or enacted in the future.

7.1.4 The City expressly reserves the right to adopt and apply regulations to protect the City and its citizens from immediate risks to health and safety.

7.2 **Referendum.** Developer acknowledges that the Adopting Ordinance, which is a legislative land use approval, is potentially subject to referendum. Notwithstanding anything in this Agreement to the contrary, Developer shall not acquire any rights through this Agreement: (1) while such approval is still potentially subject to referendum; or (2) in the event that such approval is reversed by referendum.

7.3 **Mitigation of Impacts.** Developer shall timely satisfy and comply with all Mitigation Measures and other conditions of the Project Approvals. Any failure to comply with the Mitigation Measures and/or other conditions of the Project Approvals required herein shall be a violation of this Agreement, entitling the City to terminate this Agreement.

8. **Applicable Rules, Regulations, Fees and Official Policies.**

8.1 **Rules Regarding Design and Construction.** Unless otherwise expressly provided in this Agreement, all other ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications, applicable to the Project and to public improvements to be constructed by the Developer shall be those in force and effect at the time the applicable permit approvals are granted.

8.2 **Design Review and Building Standards.** Developer shall comply with the design, development and construction standards in effect at the time building permits for development of the Property are issued (e.g., City standard specifications, building and fire codes, regulations related to provision of water and sewer service. etc.).

8.3 **Uniform Codes Applicable.** Unless otherwise expressly provided in this Agreement, any improvements to the Property undertaken by Developer shall comply with the California Building Standards Codes, Title 24 of the California Code of Regulations, as adopted and amended by the City, as the same shall be in effect as of the time of approval of the permit

in question. Such improvements shall also comply with the provisions of the California Mechanical, Plumbing, Electrical and Fire Codes, and City standard construction specifications, in effect at the time of approval of the appropriate permits for the improvements. This provision shall not apply to any changes in the State Building Code that are imposed on the City. If no permit is required for a given improvement, such improvement will be constructed in accordance with said Codes in effect in the City as of the commencement of construction of such improvement.

8.4 **Fees, Dedications, Assessments and Taxes.**

8.5.1 **Payment of Development Impact and Other City Fees, Taxes, and Assessments.** Developer shall pay all impact and other City fees, taxes and assessments when due pursuant to the Fee Reduction/Fee Deferral Agreement.

8.5.2 **Other Public Agencies.** Nothing in this Agreement is intended to govern the authority of other public agencies to impose fees.

9. **Public and Private Improvements.**

9.1 **Public Works and Community Development.** Any public improvements and work performed by Developer in connection with the Project shall be to the satisfaction of the City Engineer.

10. **Public Safety and Security.** In the event that this Agreement is terminated prior to the completion of construction of the Project, Developer, at its sole costs and expense, shall be required to render the Property and any improvements to the Property to a Safe Condition. Determination of whether the Property has been rendered to a Safe Condition shall be to the satisfaction of the City Engineer. This provision shall survive the termination of this Agreement as provided for in Section 13 of this Agreement.

11. **Amendment.** This Agreement may be amended in writing from time to time by mutual consent of the Parties hereto and in accordance with the procedures required by the Development Agreement Law.

12. **Annual Review of Agreement.**

12.1 **Review Date.** The annual review date of this Agreement (the “Review Date”) as required by Development Agreement Law shall be approximately twelve (12) months from the Effective Date and every twelve (12) months thereafter.

12.2 **Procedures.** The procedures for annual review shall be as set forth in the Development Agreement Law.

12.3 **Fee for Annual Review.** The reasonable cost for the City’s annual review of this Agreement shall be paid by Developer, shall be actual costs incurred by the City in connection with the review, plus 20 percent (20%) of the actual cost to cover administrative overhead.

13. **Default.**

13.1 **Default.** The failure of either party to perform any obligation or duty under this Agreement within the time required by this Agreement shall constitute an event of default. (For

purposes of this Agreement, a Party asserting that the other Party is in default shall be referred to as the "Complaining Party" and the other Party shall be referred to as the "Defaulting Party.")

13.2 **Notice.** The Complaining Party may not place the Defaulting Party in default unless it has first given written notice to the Defaulting Party, specifying the nature of the default and the manner in which the default may be cured, if known to the Complaining Party. Any failure or delay by the Complaining Party in giving such notice shall not waive such default or waive any of the Complaining Party's remedies.

13.3 **Cure.** The Defaulting Party shall have thirty (30) days from the receipt of notice to cure the default. In the case of monetary defaults, any default must be cured completely within the thirty (30) day period. In the case of non-monetary defaults, if the default cannot be reasonably cured within such time, the default shall be deemed cured if: (1) the cure is commenced at the earliest practicable date following receipt of notice; (2) the cure is diligently prosecuted to completion at all times thereafter; (3) at the earliest practicable date (but in no event later than thirty (30) days after receiving the notice of default), the Defaulting Party provides written notice to the Complaining Party that the cure cannot be reasonably completed within such thirty (30) day period; and (4) the default is cured at the earliest practicable date, but in no event later than one hundred twenty (120) days after receipt of the first notice of default.

13.4 **Remedies.** If the Defaulting Party fails to cure a default in accordance with the foregoing, the Complaining Party shall have the right to terminate this Agreement upon notice to the Defaulting Party and the Complaining Party may pursue all remedies available by law or in equity, including specific performance and injunctive relief.

13.5 **Waiver of Damages.** Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge that the City would not have entered into this Agreement had it been exposed to liability for damages from Developer, and that therefore, Developer hereby waives all claims for damages against the City for breach of this Agreement. Developer further acknowledges that under the Development Agreement Law, land use approvals (including development agreements) must be approved by the City Council and that under law, the City Council's discretion to vote in any particular way may not be constrained by contract. Developer therefore waives all claims for damages against the City in the event that this Agreement or any Project Approval is: (1) not approved by the City Council; or (2) is approved by the City Council, but with new changes, amendments, conditions or deletions to which Developer is opposed. Developer further acknowledges that as an instrument which must be approved by ordinance, a development agreement is subject to referendum; and that under law, the City Council's discretion to avoid a referendum by rescinding its approval of the underlying ordinance may not be constrained by contract, and Developer waives all claims for damages against the City in this regard.

13.6 **Effect of Termination of Agreement on Conditional Use Permit.** Developer agrees that termination of this Agreement in accordance with this Section 13 shall also result in the automatic termination of the Project Approvals.

14. **Insurance and Indemnity.**

14.1 **Indemnification, Defense and Hold Harmless.** Developer shall indemnify, defend, and hold harmless to the fullest extent permitted by law, the City and its officer, officials, consultants and employees ("Indemnitees") from and against any and all claims, liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature

arising out of or in connection with the Project, the Project Approvals or the Property (including any challenge to the validity of any provision of this Agreement or the Project Approvals, or Developer's failure to comply with any of its obligations in this Agreement, or Developer's failure to comply with any current or prospective Law); provided, however, that Developer shall have no obligations under this section for such loss or damage which was caused by the sole negligence or willful misconduct of the City. This indemnification obligation shall survive this Agreement and shall not be limited by any insurance policy, whether required by this Agreement or otherwise.

14.2 **Insurance.**

14.2.1 **Public Liability and Property Damage Insurance.** At all times that Developer is constructing any improvements to the Property, Developer shall maintain in effect a policy of comprehensive general liability insurance with a per-occurrence combined single limit of five million dollars (\$5,000,000) and a deductible of not more than fifty thousand dollars (\$50,000) per claim. The policy so maintained by Developer shall name the City as an additional insured and shall include either a severability of interest clause or cross-liability endorsement.

14.2.2 **Workers' Compensation Insurance.** At all times that Developer is constructing any improvements, Developer shall maintain workers' compensation insurance for all persons employed by Developer for work at the Project site. Developer shall require each contractor and subcontractor similarly to provide workers' compensation insurance for its respective employees. Developer agrees to indemnify the City for any damage resulting from Developer's failure to maintain any such insurance.

14.2.3 **Evidence of Insurance.** Within sixty (60) days of the Effective Date of this Agreement, Developer shall furnish City satisfactory evidence of the insurance required by this Sections 14.2 and evidence that the carrier is required to give the City at least fifteen (15) days prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to the City, its elective and appointive boards, commissions, officers, agents, employees and representatives and to Developer performing work on the Project.

15. **Assignment and Transfers of Rights and Interest.**

15.1 **Assignment of Rights Under Agreement.** Developer may not transfer or assign its interests under this Agreement, in whole or in part, for any reason without the express written consent of the City. Any assignment or transfer of interests under this Agreement or the Project Approvals without the City's express written consent shall constitute an event of default, subject to immediate termination, including any transfer as a matter of law due to foreclosure or some other event.

15.2 **Non-transferability of Project Approvals to Other Location.** The Project Approvals issued for the Property shall not be transferable to any other location.

15.3 **Runs with the Land.** Except as otherwise provided in this Agreement, and for so long as this Agreement remains in effect, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, sub-lessees, and all other persons acquiring the Developer's interest in the Property, whether by operation of law or in any manner whatsoever; provided that no successor or assignee of Developer may obtain the benefits hereunder unless the City has consented to assignment of those rights as set forth in Section 15.1. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute

covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1466 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any leasehold interest in the Property: (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each Party and each successive owner during its ownership of such leasehold interest in the Property or any portion thereof, and shall be a benefit to and a burden upon each Party and its property hereunder and each other person succeeding to an interest in such properties.

16. **Miscellaneous.**

16.1 **Estoppel Certificate.** Either Party may at any time request the other Party to certify in writing that: (1) this Agreement is in full force and effect; (2) this Agreement has not been amended except as identified by the other Party; and (3) to the best knowledge of the other Party, the requesting Party is not in default, or, if in default, the other Party shall describe the nature and any amount of any such default. The other Party shall use its best efforts to execute and return the estoppel certificate to the requesting Party within thirty (30) days of the request. The City Manager shall have authority to execute such certificates on behalf of the City.

16.2 **Recordation.** This Agreement shall not be operative until recorded with the Sonoma County Recorder's office. Developer shall record this Agreement against the Property at its expense with the County Recorder's office within ten (10) days of the Effective Date, and shall cause any amendment to this Agreement or any instrument affecting the term of this Agreement to be recorded within ten (10) days from date on which the same become effective. Any amendment to this Agreement or any instrument affecting the term of this Agreement which affect less than all of the Property shall contain a legal description of the portion thereof that is the subject of such amendment or instrument.

16.3 **Notices.** All notices required by this Agreement or the Development Agreement Law shall be in writing and personally delivered or sent by certified mail, postage prepaid, return receipt requested.

Notice required to be given to the City shall be addressed as follows:

City of Sebastopol
 7120 Bodega Ave.
 Sebastopol, CA 95473
 ATTN: City Manager

with copies to:

City of Sebastopol
 7120 Bodega Ave.
 Sebastopol, CA 95473
 ATTN: City Attorney

Notice required to be given to the Developer shall be addressed as follows:

Piazza Hospitality Group
414 Healdsburg Avenue
Healdsburg, CA 95448
Attn: Paolo Petrone

Either Party may change the address stated herein by giving notice in writing to the other Party, and thereafter notices shall be addressed and transmitted to the new address. All notices shall be deemed received on the earlier of the date that personal delivery is effected or the date shown on the return receipt.

16.4 **References to Municipal Code.** This Agreement may contain references to articles and sections of the City's Municipal Code. If, after the Effective Date, the City amends or renumbers its Municipal Code, then the references in this Agreement shall be understood to apply to the amended or renumbered Municipal Code.

16.5 **Construction of Agreement.** The provisions of this Agreement and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions hereof, in order to achieve the objectives and purpose of the parties hereunder. The captions preceding the text of each Article, Section, and subsection hereof are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders and vice versa.

16.6 **Third Party Beneficiaries.** This Agreement is entered into for the sole benefit of the Parties and any Successors. No other party shall have any cause of action or the standing to assert any rights under this Agreement.

16.7 **Attorneys' Fees and Costs in Legal Actions by Parties to the Agreement.** Should any legal action be brought by either Party for breach of this Agreement or to enforce any provisions herein, each Party shall bear its own costs (including attorneys' fees) and neither Party shall be entitled to recover such costs from the other Party.

16.8 **Liability of City Officials.** No City official or employee shall be personally liable under this Agreement.

16.9 **Delegation.** Any reference to any City body, official or employee in this Agreement shall include the designee of that body, official or employee, except where delegation is prohibited by law.

16.10 **Severability.** Should any provision of this Agreement be found invalid or unenforceable by a court of law, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

16.11 **Integration.** This Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes any previous oral or written agreement. This Agreement may be modified or amended only by a subsequent written instrument executed by all of the Parties.

16.12 **Counterparts**. This Agreement may be signed in one (1) or more counterparts and will be effective when the Parties have affixed their signatures to counterparts, at which time the counterparts together shall be deemed one (1) original document; provided, however, that all executed counterparts are provided to the City Clerk.

16.13 **Interpretation**. The Parties acknowledge that this Agreement has been negotiated by both Parties and their legal counsel and agree that this Agreement shall be interpreted as if drafted by both Parties.

16.14 **Inconsistency**. In the event of any conflict or inconsistency between the provisions of this Agreement and the Project Approvals or Exhibits, this Agreement shall prevail.

16.15 **Incorporation**. The Recitals, Exhibits, and all defined terms in this Agreement are part of this Agreement.

16.16 **Applicable Law and Venue**. This Agreement shall be construed and enforced in accordance with the laws of the State of California without regard to principles of conflicts of law. In the event of litigation arising under this Agreement, venue shall reside exclusively in the Superior Court of the County of Sonoma or, in the event of federal litigation, the Northern District of California.

16.17 **Time of the Essence**. Time is of the essence of this Agreement.

(Signatures on Next Page)

IN WITNESS WHEREOF, the Parties hereto are executing this Agreement on the dates set forth below, to be effective as of the Effective Date.

“CITY”

“DEVELOPER”

CITY OF SEBASTOPOL,
a municipal corporation

PIAZZA HOSPITALITY GROUP
a California limited liability company

By: _____

By: _____

Name: _____

Name: _____

Title: City Manager

Title: _____

Dated: _____, 2024

Dated: _____, 2024

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

List of Exhibits:

Exhibit A: Fee Reduction/Fee Deferral Agreement

Exhibit B: Legal Description of the Property

Exhibit A

Fee Reduction/Fee Deferral Agreement

FEE REDUCTION/FEE DEFERRAL AGREEMENT

THIS FEE DEFERRAL AGREEMENT ("Agreement") is made and entered into by and between CITY OF SEBASTOPOL, 7120 Bodega Avenue, Sebastopol, CA 95472, a California municipal corporation and General Law City ("City"), and PIAZZA HOSPITALTY, 414 Healdsburg Avenue, Healdsburg, CA 95448 (Owner/Developer), (collectively, the "Parties") with reference to the following facts:

Owner/Developer is the owner of that certain real property in the City of Sebastopol, County of Sonoma, State of California, more particularly described on the attached Exhibit "A" (the "Property").

Owner/Developer seeks to develop Hotel Sebastopol, a small, design-oriented boutique hotel with 66 rooms. The hotel will operate 24 hours a day, 7 days a week, year-round. The Hotel Project (the "Project") will also include a lobby and reception area, retail, artist/maker studios, restaurant, bar, lounge, wellness center, public courtyard, private gardens, outdoor rooftop decks, meeting rooms, and other hotel amenities. There will be a total of 122 parking spaces for the project, including 34 on-street and 88 located on an adjacent parcel across Brown Street.

Owner/Developer is pursuing its redevelopment plans through various stages of City and other governmental approvals.

Upon the issuance of the Building Permits, certain Development Fees are due and payable and are more particularly described on Exhibit "B" attached.

Hotel Sebastopol will provide significant economic development benefits to the City of Sebastopol in terms of both job creation and new tax revenue, including new property tax revenue, transient occupancy tax revenue, and sales tax revenue. Piazza Hospitality has requested financial assistance as listed below in order to create economic feasibility of the project.

The City Council of the City of Sebastopol discussed the developer's request at their meeting of August 7, 2018 and directed staff to negotiate an agreement with the Developer which would allow for a fee deferral for Hotel Sebastopol and further approved and authorized a reduction of fees as set forth on Exhibit "B". The total of the aforesaid fee reduction is 35% of the water and sewer connection fees, or \$28,903.70, and 50% of the Building Plan Check fee, or \$40,410.23.

The City Council further directed that the Traffic Impact Fee shall not be reduced and is payable in full to the City of Sebastopol.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. All Development Fees shall be paid to the City no later than at the time of final inspection, issuance except as may be hereinafter amended below. City user fees, school impact fees, and other fees not within the jurisdiction of the City shall be paid at the time of building permit or when otherwise due.
2. Developer agrees to payment of the Development Fees set forth on "Exhibit B, Column B" to the City of Sebastopol, payable on a deferred basis as hereinafter set forth. The art in-lieu fee of \$250,000 may be reduced through approved on-site art public art installations as specified in Sebastopol Municipal Code (SMC) Section 17.360. The cost of any required public art not

- installed by time of certificate of occupancy shall require a bond for any uncompleted work per SMC 17.360.030(H), or shall be added to the repayment of Development Fees in accordance with the below provisions.
3. The City may place a lien on the property for the amount(s) then owing, at the time of its choosing, but not sooner than the issuance of the first building permit. The City may amend the lien from time to time as fees are paid or actual fees exceed or are less than the estimated fee amount.
 4. Developer agrees to the repayment /deferment of hereinabove referenced fees as follows:
 - a. The deferral of payment until one year after opening or three consecutive months with over 75% occupancy of the hotel rooms, whichever comes first.
 - b. Fees shall be paid in equal monthly installments after the above date and over the course of five years. Payment shall be due on the 1st of each month.
 - c. No interest shall be accumulated or charged on these fees.
 - d. Funds may be repaid in full at any time at the Developer's discretion.
 - e. If payment is not received for three consecutive months at any time during the repayment period, the Owner/Developer shall be considered in default of this agreement. The City may pursue full repayment at such time using any method it sees fit, including, but not limited to, enforcement of its lien.
 5. Based on the current estimated fees of \$329,431.69 in Deferred Fees ("Exhibit B, Column B"), the monthly payment amount would be \$5,490.53 for five years (60 months), not including any Public Art in-lieu fees that may be due and payable at the time of certificate of occupancy. Any remaining art in-lieu fees shall be added to the deferral payments based on the remaining monetary value of art not installed.
 6. The aforementioned fee reductions are contingent on the development of a Project that receives the following certifications:
 - a. LEED Certification for all three structures from the U.S. Green Building Council; and
 - b. Net Zero Energy Verification by a third-party, monitoring-based commissioning agent, approved by the City, for the hotel-specific building spaces (excluding the restaurant building, retail, and wellness center), who will monitor the building energy usage and solar pv energy production for not less than one year; and
 - c. 35% water reduction over base water use set by CalGreen, and certified by a Cal Green Inspector.
 7. The City reserves the right to withhold the issuance of any building or occupancy permits, or Temporary Event or other discretionary City permits once the repayment period commences, should the Developer fail to make the required payment.
 8. City Staff Fees listed in "Exhibit B, Column C" will be due at time of submission of applications and issuance of permits, as appropriate, and are not authorized for deferral of fees. These fees include application, plan check, and permit fees for Planning; Building; Engineering; and, Fire.

- 9. The fees listed in Exhibit B are based on a construction valuation of \$25,000,000. Should the project change significantly in scope, the City reserves the right to adjust the fees to reflect the change in scope. The City Staff fees listed in "Exhibit B, Column A" are subject to annual fee schedule update on November 1, 2018. The fees assessed to the project shall be paid based on the fee schedule in effect at the time the fee is due.

- 10. All costs associated with attaining the above certifications, including CalGreen and LEED inspectors, shall be the sole responsibility of the Owner/Developer. If the Project does not attain the certifications listed above within one year after Occupancy is granted, the fee reductions shall be rescinded, and the fee reductions outlined above in the amount of \$69,313.93 shall be due and payable to the City.

- 11. This Agreement is contingent on Owner/Developer meeting the following milestones, unless otherwise approved in writing by the City Manager:
 - a. Receiving all Design Review and Tree Permit (Planning) approvals by January 17, 2019;
 - b. Submittal of a complete set of Construction Drawings, including all required soil engineering and geotechnical letters and Floodplain Development Permit items, by December 31, 2018;
 - c. Issuance of Improvement and Grading Permits on or before April 2019;
 - d. Issuance of Building Permits for all three structures on the hotel site (APN 004-052-001) on or before June 2019;
 - e. Approval of the Floodplain Development Permit for the parking site (APNs 004-061-007, -008, -009, and -010) by July 2019;
 - f. Approval of all required public art within six months of issuance of building permits;
 - g. Completion of construction and receipt of Certificate of Occupancy for the main hotel building by June 2021; and
 - h. Submittal of LEED and Net Zero Energy Verification by December 2022.

- 12. If the said milestones are not achieved, the fee reductions shall be rescinded, and the fees shall be due and payable to the City.

The person signing on behalf of Owner certifies that s/he can legally bind Owner and agrees to hold City harmless if it is later determined that such authority does not exist.

This Agreement shall be effective upon the date it is executed by the City Manager.

IN WITNESS WHEREOF, this Agreement is executed by THE CITY OF SEBASTOPOL, acting by and through the approval of the City Council, authorizing such execution, and by Owner.

Piazza Hospitality
BY: Paolo Petrone

Dated: November 6, 2018

City of Sebastopol
BY: 

Dated: 11-6-18

ORDER NO. : 0227015145

EXHIBIT A

The land referred to is situated in the County of Sonoma, City of Sebastopol, State of California, and is described as follows:

Tract 1 - Parcel 1

Beginning at the intersection of the Northerly line of Depot Street with the Westerly line of Brown Street, as shown on the map of the property of Birdie Miller Cnopius, filed in the Office of the Sonoma County Recorder on August 28, 1918 in Book 35 of Maps, at Pages 21, 22 and 23; thence North 7° 21' West along Brown Street, a distance of 287.6 feet to McKinley Street; thence South 84° 09' West along McKinley Street 217.6 feet to the Easterly line of Petaluma Avenue as conveyed to the City of Sebastopol by Deed recorded July 7, 1927 in Book 173 at Page 440, Sonoma County Records; thence South 24° 49' East along Petaluma Avenue, a distance 345.05 feet to Depot Street; thence North 65° 11' East along Depot Street, 119.85 to the place of beginning.

APN: 004-052-001

Tract 2 - Parcel 2**PARCEL ONE**

Commencing at a point formed by the intersection of the Northerly line of Depot Street with the Easterly line of Brown Avenue; thence running Easterly along the Northerly line of said Depot Street 81 feet 3 inches; thence at right angles Northerly 83 feet; thence at right angles Westerly 75 feet 4 inches to the Easterly line of Brown Avenue; thence Southerly along the Easterly line of said Brown Avenue 83 feet to the point of beginning.

PARCEL TWO

Being a portion of Lot 6 in Block 4, of the property of Birdie Miller Cnopius as shown on the map of said property recorded in Book 35 at Pages 21, 22 and 23, Sonoma County Records, and more particularly described as follows:

Beginning at the Southeast corner of Lot 6; thence North 11° 45' West, 108.00 feet; thence South 76° 41' West 38.95 feet; thence South 7° 21' East 31.0 feet to the Southeast corner of Lot 8; thence North 76° 41' East 4.84 feet to the Northeast corner of Lot 7; thence South 10° 51' East 77.0 feet to the Southwest corner of Lot 6; thence North 76° 57' East 39.72 feet to the point of beginning.

PARCEL THREE

Being a portion of Lot 8 in Block 4, of the property Birdie Miller Cnopius as shown on the map of said property recorded in Book 35 at Pages 21, 22 and 23, Sonoma County Records, and more particularly described as follows:

Beginning at the Southwest corner of Lot 8; thence North 76° 41' East, 71.5 feet to the Southeast corner of Lot 8; thence North 7° 21' West 31.0; thence South 76° 41' West 71.5 feet to a 3/4" pipe; thence South 7° 21' East 31.0 feet to the point of beginning.

Excepting that portion lying within Depot Street.

APN: 004-061-007

004-061-008

EXHIBIT B

	Original Fees	Column A: City Staff Fees (Due at time of Application or issuance of permits)	Column B: Development Fees	Column C: Fee Reductions Authorized by City Council
BUILDING FEES:				
Building Permit Fees	\$124,339.20	\$124,339.20		
Electrical Permit Fees:	\$24,942.84	\$24,942.84		
Mechanical Permit Fees:	\$18,725.88	\$18,725.88		
Plumbing Permit Fees:	\$24,942.84	\$24,942.84		
Building Plan Check 65% of permit fee	\$80,820.47	\$40,410.24		\$40,410.24
Fire (Comm) 25 % Permit Fee	\$31,084.80	\$31,084.80		
Outside Plan Check (Structural review)		<i>To be paid directly to outside plan check firm</i>		
Incremental Fee	\$25,000.00	\$25,000.00		
Tech System Fee	\$25,000.00	\$25,000.00		
SMIF - Commercial	\$7,000.00	\$7,000.00		
Green Building Fee	\$1,000.00	\$1,000.00		
SUB-TOTAL	\$362,856.03	\$322,445.80	\$0.00	\$40,410.24
FIRE FEES				
Fire Sprinkler Fees(Res or Comm)	\$450.00	\$450.00		
Fire Alarm	\$300.00	\$300.00		
Fire Suppression:	\$ (TBD at time of permit)	\$ (TBD at time of permit)		
SUB-TOTAL	\$750.00	\$750.00	\$0.00	\$0.00
PLANNING FEES*				
Design Review Fee and Deposit:	\$250.00	\$250.00 (PA 10/25/18)		
Tree Removal Fee and Deposit:	\$1,315.00	\$1,315.00 (PA 10/25/18)		
Tree Protection Plan Fee	\$385.00	\$385.00		
Lot Merger Fee and Deposit:	\$1,965.00	\$1,965.00 (PA 10/25/18)		
Public Art Review Fee and Deposit:	\$1,450.00	\$1,450.00 (PA 10/25/18)		
Traffic Impact:	\$61,775.31		\$61,775.31	
Park In Lieu:	\$171,600.00		\$171,600.00	
General Plan Update:	\$75,000.00	\$75,000.00		
Planning Plan Check:	\$155.00	\$155.00		
Housing Linkage Fee:	\$96,056.38		\$96,056.38	
Art in Lieu (1% of construction cost):***	\$250,000, unless fulfilled on-site		\$250,000, unless fulfilled on-site	
SUB-TOTAL (not including Art Fee)	\$409,951.69	\$75,540.00	\$329,431.69	\$0.00
SUB-TOTAL (including Art Fee)	(\$648,815.02 if art not provided on-site)	\$151,080.00	(\$566,940.02 if art not provided on-site)	\$0.00
ENGINEERING FEES*				
Plan Check Deposit – Major Commercial*	\$7,500.00	\$7,500.00 (PA 8/22/18)		
Grading Permit:	\$900.00	\$900.00 (PA 8/22/18)		
Grading Permit Inspection Deposit:	\$3,400.00	\$3,400.00 (PA 8/22/18)		
Encroachment Permit:	\$500.00	\$500.00		
Additional contractors:	\$275/each	\$275/each		
Encroachment Permit Deposit:	\$2,000.00	\$2,000.00		
Water Connection Fee:**	\$43,503.00	\$28,276.95		\$15,226.05
Water Meter:	\$1,845.00	\$1,845.00		
Sewer Connection Fee:	\$39,079.00	\$25,401.35		\$13,677.65
SUB-TOTAL	\$98,727.00	\$69,823.30	\$0.00	\$28,903.70
TOTAL***	\$872,284.72	\$468,559.10	\$329,431.69	\$69,313.94

Fees listed are current fees in effect until Nov 1, 2018. Fees are subject to annual fee schedule update on December 1, 2018.

* Deposits are subject to the refund/billing policy of the City. Note fees are as of 11/1/2018. Fees do not include any Tenant Improvement Permits for restaurant, other uses. Fire deferred submittal TBD

**Water/Sewer Connection fees to be confirmed.

*** Art in-lieu fee of \$250,000 not included in Totals. On-site art installation has been approved by the Public Art Committee. Contract showing total amount of art installation is due prior to issuance of bldg permit. Any balance of art fee not fulfilled through installed art by time of final inspection shall be added to the Deferred Impact Fee payment or subject to bond per SMC 17.360.030(H).

Exhibit B

Legal Description of the Property

2523066.1 15107.003

LEGAL DESCRIPTION

Real property in the City of Sebastopol, County of Sonoma, State of California, described as follows:

PARCEL ONE:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF DEPOT STREET WITH THE WESTERLY LINE OF BROWN STREET, AS SHOWN ON THE MAP OF THE PROPERTY OF BIRDIE MILLER CNOPIUS, FILED IN THE OFFICE OF THE SONOMA COUNTY RECORDER ON AUGUST 28, 1918 IN BOOK 35 OF MAPS, AT PAGES 21, 22 AND 23; THENCE NORTH 7° 21' WEST ALONG BROWN STREET, A DISTANCE OF 287.6 FEET TO MCKINLEY STREET; THENCE SOUTH 84° 09' WEST ALONG MCKINLEY STREET 217.6 FEET TO THE EASTERLY LINE OF PETALUMA AVENUE AS CONVEYED TO THE CITY OF SEBASTOPOL BY DEED RECORDED JULY 7, 1927 IN BOOK 173 AT PAGE 440, SONOMA COUNTY RECORDS; THENCE SOUTH 24° 49' EAST ALONG PETALUMA AVENUE, A DISTANCE 345.05 FEET TO DEPOT STREET; THENCE NORTH 65° 11' EAST ALONG DEPOT STREET, 119.85 TO THE PLACE OF BEGINNING.

PARCEL TWO:

BEING THE LANDS SHOWN AND DESCRIBED AS "VOLUNTARY MERGER RESULTANT PARCEL" IN THAT CERTAIN GRANT DEED RECORDED JUNE 28, 2019 AS INSTRUMENT NO. 2019-043882 OFFICIAL RECORDS OF SONOMA COUNTY AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY LYING WITHIN THE CITY OF SEBASTOPOL, COUNTY OF SONOMA, STATE OF CALIFORNIA, AND BEING THE LANDS OF MV HOTEL SEBASTOPOL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, DESCRIBED AS TRACT 2-PARCEL 2 BY DEED RECORDED OCTOBER 26, 2016 UNDER DOCUMENT NUMBER 2016-099082, SONOMA COUNTY RECORDS, AND DESCRIBED AS PARCEL 1 AND PARCEL 2 BY DEED RECORDED NOVEMBER 10, 2016 UNDER DOCUMENT NUMBER 2016-104482, SONOMA COUNTY RECORDS, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY, FILED MARCH 2, 2018 IN BOOK 793 OF MAPS AT PAGE 14, SONOMA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST COMER OF SAID LANDS AS SHOWN ON SAID RECORD OF SURVEY, BEING A POINT AT THE INTERSECTION OF THE NORTHERLY LINE OF DEPOT STREET WITH THE EASTERLY LINE OF BROWN AVENUE; THENCE ALONG SAID EASTERLY LINE AND ALONG THE WESTERLY LINE OF SAID TRACT 2-PARCEL 2 AND THE WESTERLY LINE OF SAID PARCEL 1 AND PARCEL 2, NORTH 7°21'00" WEST, 206.30 FEET TO THE NORTHWEST COMER OF SAID LANDS; THENCE LEAVING SAID EASTERLY LINE, ALONG THE NORTHERLY LINE OF SAID PARCEL 2, NORTH 80°16'00" EAST, 95.33 FEET TO THE NORTHEAST COMER OF SAID LANDS; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 1 AND PARCEL 2, SOUTH 12°44'37" EAST, 91.80 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1, BEING A POINT ON THE NORTHERLY LINE OF SAID TRACT 2- PARCEL 2; THENCE ALONG SAID NORTHERLY LINE, NORTH 76°41'00"EAST, 6.00 FEET TO THE NORTHEAST COMER OF SAID TRACT 2- PARCEL 2; THENCE ALONG THE EASTERLY LINE OF SAID TRACT 2-PARCEL 2, SOUTH 12°45'00" EAST, 108.00 FEET TO SAID NORTHERLY LINE OF DEPOT STREET; THENCE ALONG SAID NORTHERLY LINE, BEING THE SOUTHERLY LINE OF SAID LANDS, SOUTH 76°57'00" WEST, 120.60 FEET TO THE POINT OF BEGINNING.

PARCEL THREE:

A RIGHT OF WAY 20 FEET IN WIDTH BEING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE;

First American Title Insurance Company

COMMENCING AT THE WESTERLY COMMON CORNER OF LOTS 9 AND 10 IN SAID BLOCK 4; AND
RUNNING THENCE NORTH 80° 16' EAST 114.14 FEET TO A POINT.

PARCEL FOUR:

A RIGHT OF WAY 18.8 FEET IN WIDTH, BEING 9.4 FEET ON EACH SIDE OF THE FOLLOWING
DESCRIBED CENTER LINE:

COMMENCING AT A POINT ON THE LINE BETWEEN LOTS 9 AND 10 IN BLOCK 4, DISTANT NORTH 80°
16' EAST 104.74 FEET FROM THE WESTERLY COMMON CORNER THEREOF; THENCE SOUTH 12° 45'
EAST 49.65 FEET TO A POINT.

APN: 004-052-001(Affects Parcel One), 004-061-019(Affects Parcel Two)

RECORDATION OF THIS CERTIFICATE IS THE RESPONSIBILITY OF THE REQUESTING PARTY.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

Acknowledgment

State of California }
County of Sonoma }

On _____, before _____ me,
_____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

_____, Notary Public