



City of Sebastopol Planning Commission Staff Report

Meeting Date: April 16, 2024
Agenda Item: 6D
To: Planning Commission
From: Kari Svanstrom, Planning Director
Subject: Hotel Sebastopol Development Agreement
Recommendation: Adopt the Resolution recommending Council approve the Development Agreement

Applicant/Owner: MV Hotel LLC
File Number: 2024-008
Address: 6826-6828 Depot Street
CEQA Status: Adopted Mitigated Negative Declaration
General Plan: Central Core
Zoning: Downtown Core (CD)

Introduction:

The “Hotel Sebastopol” development at 6828 Depot Street, with the parking area across Brown Street at 6826 Depot 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) for two years (The City is recommending three years), while the project undergoes Federal archeological review and approval to procure financing for the project. The Development Agreement requires review and recommendation by the Planning Commission, and approval by the City Council.

Discussion:

A Development Agreement is a legal agreement between a developer and municipality for the development of the property that provide certainty to both the City and the Developer for development projects that the project can proceed as approved, in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.

Development Agreements are governed by State Law, as well as the Sebastopol Municipal Code Section 17.440.

City staff and legal counsel have drafted a Development Agreement which would do the following:

- Provide for the extension of the Project approvals for three years from the date of final approval of the Development Agreement;

- Incorporate the previously approved Fee Agreement which the City Council approved in 2018.
- Incorporates 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;
- Incorporates the requirements of Sebastopol's Code and State Law related to Development Agreements, including that the Agreement be reviewed on a yearly basis until (construction complete, or construction commences?).

The Project approvals are proposed to remain as is, with no amendments requested to the actual Use Permits, Design Review, or other entitlements.

The Fee Agreement reduced the Building Plan Check fee by \$40,410.24 (this process is completed). It also reduced the Water Connection 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. It also provided for a deferral of impact fees for Traffic, Parks, and Housing Linkage fees to the sooner of either 1) Average Occupancy exceeding 75% occupancy for three months, or 2) one year after occupancy, and provided for these fees to be paid off in monthly installments over five years thereafter.

Of note, the costs for all Planning Entitlements and Building Permit Fees (with permit fees exceeding \$500,000) have been paid as the project has progressed, and are not part of the fee deferral.

Project Description/Details:

The "Hotel Sebastopol" development at 6828 Depot Street, with the parking area across Brown Street at 6826 Depot Street, was approved in 2017. The owners have proceeded with multiple entitlements since that time, including two lot mergers, public art approvals, and design review amendments, and received a building permit in September 2022. However, the project has been delayed due to various world events, including COVID, which had substantial devastation throughout the hospitality market, which is only now recovering, and the subsequent rise in inflation and interest rates. The owner has moved forward with various components of the project necessary for construction to ready the project for construction, including submittal of Caltrans encroachment permits for improvements along Petaluma Avenue, application to PGE for electrical service (and subsequent required lot merger required by PGE, approved December 12th, 2023, by the City). They have also re-bid the project and selected a General Contractor, and have applied for financing through the Federal Small Business Administration. The latter requires Federal archeology review which is a lengthy process but underway.

Given these delays to the project, and the current high interest rates, the applicant is requesting a Development Agreement with the City to ensure the building permit and entitlements wdo not expire. The applicant has requested a two year time frame for the agreement for start of construction, which would fully vest their development rights.

The applicant has expended substantial funds continuing the project development, including the architectural and engineering costs for development of the subsequent approvals and building permit documents, and outside agency applications. Planning staff has been in frequent communication with the applicant since the initial approvals to process a variety of subsequent approvals and tracking the project progress. As such, staff believes the applicant is seriously pursuing the project to completion, and recommends the Development Agreement request be approved. Additionally, the resulting development is anticipated to bring significant Transit

Occupancy Tax to the City, as well as ancillary economic development from visitor traffic at shops, restaurants, and the like.

If the Development Agreement is not approved, the developer could still move forward under the building permit with appropriate levels of progress on the building permit and the discretion of the Building Official. Given the high profile nature of this Project, the desire for transparency to the community, and the desire for the City to better understand the needs and timing of the project, City staff recommended a Development Agreement be pursued to clarify both the Developer needs and the City's expectations. As part of this, staff is recommending a three year time period for the agreement. The developer will be required to update the City annuall.

Required Findings:

SMC Section 17.440- governs Development Agreements. For approval, a Development Agreement must be in conformance with State Law, the City's General Plan, and Zoning Ordinance.

General Plan Consistency

Approval of the Development Agreement requires it be consistent with the General Plan.

Zoning Ordinance Consistency

Zoning Ordinance criteria for approval of a Development Agreement include consistency with the SMC Section 17.440, which requires review by the Planning Commission and approval by City Council by Ordinance.

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, allow for the project approvals to remain in place, subject to the original findings and conditions of approval, for a period of three years. The attached draft 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 requiemtns of the California Environmental Quality Act (CEQA). This approval is still valid.

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.

City Departmental Comments:

The application was routed to City departments for review. No comments were received.

Public Comment:

As prescribed by Section 17.460 of the Zoning Ordinance, the Planning Department completed the following: (1) Provided written notice to all property owners within 600 feet of the external boundaries of the subject property; (2) provided a written notice that was published in the Press Democrat; and (3) posted three written notices publicly on and within vicinity of the subject property.

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

Recommendation:

Staff believes the proposed Development Agreement to extend the time of the project approvals meets the requirements for approval, and recommends approval of the request subject to the following conditions:

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

If it is the consensus of the Planning Commission is to recommend the Development Agreement to Council, it should direct staff to return for a formal Public Hearing on an enabling Ordinance and final Draft Agreement, with any modifications requested by the Commission.

Attachments:

Applicant Materials

Draft Development Agreement

PIAZZA

HOSPITALITY

Paolo Petrone
Piazza Hospitality
February 22, 2024

Kari Svanstrom
Planning Director
City of Sebastopol

Re: Hotel Sebastopol

Dear Kari,

As a part of our endeavor to enter into a Development Agreement with the City for our Hotel Sebastopol project, I'd like to provide you with an update on our project, its anticipated timeline, and reasons for needing such an agreement.

As you know, our project has faced numerous unprecedented obstacles as we moved from securing our entitlements back in 2017 towards securing a building permit and breaking ground. These included:

1. The fires of 2017, 2018, and 2019, which contributed to hesitation and in some cases a freeze in lending from many local hospitality lenders.
2. The floods of 2019 necessitating a switch from an in-house plan check process to that of a third-party plan checker as the in-house team at the Building Department was busy with applications from affected businesses. Switching plan checkers partially through the permitting process necessitated substantial additional work, time, and money from the design team as the 3rd party checkers were not familiar with the project and therefore submitted numerous comments had already been addressed by the City's in-house plan check.
3. The global pandemic of 2020-2022 further upending lending markets, cratering the hospitality industry, and halting construction projects around the country.
4. Our current uncertain economic climate and its associated very high lending rates.

Current lending climate notwithstanding, we have a signed term sheet and have completed the due diligence phase of closing on our construction loan. It is a loan package that includes funding through a USDA program intended to support sustainable development in rural areas. As a result of



414 HEALDSBURG AVENUE
HEALDSBURG, CA 95448
PIAZZAHOSPITALITY.COM

this federal funding, the program requires federal environmental approval for the project, which is a step above the CEQA related analyses and approvals completed as a part of our entitlement process. The most time-consuming portion of this process has been getting federal sign off on our archeological recovery plan.

Unfortunately, the relevant federal agencies and their consultant team are very backlogged, and our final approvals keep getting pushed back. We are hoping they can provide us with a reliable timeline for environmental clearance and loan approval sometime soon. **It is our best guess that it will likely be nine months, at the earliest, before the loan package will close.**

Even so, we have made good, if slow, progress thus far and have draft agreements in place as it relates to archeology. Once these agreements are finalized and executed, we will be able to close on our loan and move towards preconstruction site activities, including a required archeological evaluation.

While we've been thrown many curveballs as we've moved through the development process, we remain committed to the project, as evidenced by our investment to date and continued work. We have progressed with our applications with PG&E and Caltrans, both of which are time-consuming and expensive endeavors, and will be good to get completed before the lion's share of the construction work begins. We have also continued to refine the indoor spaces of the hotel, and programmatic offerings.

As a reminder, we pulled our building permit on September 29th of 2022, which means it was considered active and valid until the same date in 2023. On September 25th, 2023 we completed some minor trenching work and called for an inspection, which extended the permit's validity by six months to March 29th, 2024. We plan to conduct similar work next month (March 2024) to further extend the permit's timeframe, giving us enough time to negotiate a Development Agreement and (hopefully) for the City Council to approve it. Given the extreme uncertainty regarding the timing of our loan closure, we kindly request a 1-to-2-year extension of our building permit's validity via Development Agreement. Doing so will allow us the time to fully secure all financing for the project and ultimately break ground on what we humbly but full-heartedly believe to be an important, community-supported development. We just have to navigate the best way to arrive at groundbreaking.

Please don't hesitate to reach out with any questions or if you need any further information from our end.

Sincerely,

Paolo Petrone

Paolo Petrone (CEO, Piazza Hospitality)



First American Title Insurance Company
National Commercial Services
1850 Mt. Diablo Blvd., Suite 530
Walnut Creek, CA 94596

Melissa Gray
Melvin Mark Capital Group, LLC
111 Sw Columbia St Ste 1310
Portland, OR 97201-5845
Phone: (503)546-4778

Customer Reference: Hotel Sebastopol

Escrow Officer: Nikki Hernandez
Phone: (925)927-2174
Email: NiHernandez@firstam.com

Borrower: MV Hotel Sebastopol, LLC

Property: 6824, 6826, 6828 Depot Street, and 215-225 Brown Street,
Sebastopol, CA

PRELIMINARY REPORT

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Exhibit A attached. *The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.* Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of September 07, 2022 at 7:30 A.M.

The form of Policy of title insurance contemplated by this report is:

ALTA Extended Loan Policy

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

MV Hotel Sebastopol, LLC, a California limited liability company

The estate or interest in the land hereinafter described or referred to covered by this Report is:

Fee as to Parcel One and Two, an Easement as to Parcels Three and Four

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

1. General and special taxes and assessments for the fiscal year 2022-2023, a lien not yet due or payable.
2. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
3. EASEMENT FOR ANY EXISTING UTILITIES WITHIN THAT PORTION OF THE HEREIN DESCRIBED PROPERTY LYING WITHIN "CHINA AVENUE" AS SHOWN ON THE MAP OF BIRDIE MILLER CNOPIUS PROPERTY, ABANDONED.

(Affects PARCEL ONE)

4. An easement for STREET AND PUBLIC UTILITY and incidental purposes, recorded APRIL 10, 1943 as BOOK 576, PAGE 330 of Official Records.
In Favor of: W. J. BARLOW
Affects: AS DESCRIBED THEREIN

(Affects PARCEL TWO)

5. The effect of a map purporting to show the land and other property, filed APRIL 11, 1980 IN BOOK 303, PAGE 26 of Record of Surveys.

(Affects PARCEL TWO)

6. The fact that the land lies within the boundaries of the SEBASTOPOL COMMUNITY Redevelopment Project Area, as disclosed by the document recorded JULY 29, 1983 as INSTRUMENT NO. 1983-050090 of Official Records.

(Affects ALL PARCELS)

7. A Deed of Trust to secure an original indebtedness of \$70,000,000.00 recorded APRIL 18, 1988 as INSTRUMENT NO. 88-029882 of Official Records.

Dated: APRIL 13, 1988
Trustor: DIAMOND LUMBER, INC. A DELAWARE CORPORATION
Trustee: CONTINENTAL LAND TITLE COMPANY
Beneficiary: THE CIT GROUP/BUSINESS CREDIT, INC., A NEW YORK CORPORATION

(Affects PARCEL ONE)

8. An easement for PUBLIC UTILITIES, INGRESS, EGRESS and incidental purposes, recorded MAY 31, 1991 as INSTRUMENT NO. 1991-051117 of Official Records.

In Favor of:
Affects: as described therein

(Affects PARCEL TWO)

9. An easement for SIDEWALK and incidental purposes, recorded APRIL 13, 1994 as INSTRUMENT NO. 1994-0049154 of Official Records.

In Favor of: THE CITY OF SEBASTOPOL, A MUNICIPAL CORPORATION
Affects: AS DESCRIBED THEREIN

(Affects PARCEL ONE)

10. An easement for PUBLIC UTILITY and incidental purposes, recorded DECEMBER 31, 1996 as INSTRUMENT NO. 1996-0116074 of Official Records.

In Favor of: PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION
Affects: AS DESCRIBED THEREIN

(Affects PARCEL ONE)

11. A Deed of Trust to secure an original indebtedness of \$1,500,000.00 recorded AUGUST 4, 2017 as INSTRUMENT NO. 2017-060486 of Official Records.

Dated: AUGUST 1, 2017
Trustor: MV HOTEL SEBASTOPOL LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
Trustee: ALTO SERVICE CORPORATION
Beneficiary: SUMMIT STATE BANK

The above deed of trust states that it secures a line of credit. Before the close of escrow, we require evidence satisfactory to us that (a) all checks, credit cards or other means of drawing upon the line of credit have been surrendered to escrow, (b) the borrower has not drawn upon the line of credit

since the last transaction reflected in the lender's payoff demand, and (c) the borrower has in writing instructed the beneficiary to terminate the line of credit using such forms and following such procedures as may be required by the beneficiary.

The effect of a document entitled "SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE", recorded MARCH 24, 2022 as INSTRUMENT NO. 2022-021372 of Official Records.

Note: The Company will require satisfactory proof of full payment of the debt secured by said mortgage or deed of trust prior to removing this exception or insuring the contemplated transaction.

(Affects PARCELS ONE AND TWO)

12. The effect of a map purporting to show the land and other property, filed MARCH 2, 2018 IN BOOK 793, PAGE 14 of Record of Surveys.

(Affects PARCELS ONE AND TWO)

13. Rights of the public in and to that portion of the Land lying within PETALUMA AVENUE.

(Affects PARCEL ONE)

14. Water rights, claims or title to water, whether or not shown by the Public Records.
15. Rights of parties in possession.

INFORMATIONAL NOTES

ALERT - CA Senate Bill 2 imposes an additional fee of \$75 up to \$225 at the time of recording on certain transactions effective January 1, 2018. Please contact your First American Title representative for more information on how this may affect your closing.

1. Taxes for proration purposes only for the fiscal year 2021-2022.

First Installment: \$11,895.44, PAID
Second Installment: \$11,895.44, PAID
Tax Rate Area: 005-014
APN: 004-052-001-000

(Affects Parcel One)

2. Taxes for proration purposes only for the fiscal year 2021-2022.

First Installment: \$5,502.45, PAID
Second Installment: \$5,502.45, PAID
Tax Rate Area: 005-014
APN: 004-061-019-000

(Affects Parcel Two)

3. The property covered by this report is vacant land.

4. According to the public records, there has been no conveyance of the land within a period of twenty-four months prior to the date of this report, except as follows:

None

5. If this preliminary report/commitment was prepared based upon an application for a policy of title insurance that identified land by street address or assessor's parcel number only, it is the responsibility of the applicant to determine whether the land referred to herein is in fact the land that is to be described in the policy or policies to be issued.

6. Should this report be used to facilitate your transaction, we must be provided with the following prior to the issuance of the policy:

A. WITH RESPECT TO A CORPORATION:

1. A certificate of good standing of recent date issued by the Secretary of State of the corporation's state of domicile.
2. A certificate copy of a resolution of the Board of Directors authorizing the contemplated transaction and designating which corporate officers shall have the power to execute on behalf of the corporation.
3. A certificate of revivor and a certificate of relief from contract voidability issued by the Franchise Tax Board of the State of California.
4. Requirements which the Company may impose following its review of the above material and other information which the Company may require.

B. WITH RESPECT TO A CALIFORNIA LIMITED PARTNERSHIP:

1. A certified copy of the certificate of limited partnership (form LP-1) and any amendments thereto (form LP-2) to be recorded in the public records;
 2. A full copy of the partnership agreement and any amendments;
 3. Satisfactory evidence of the consent of a majority in interest of the limited partners to the contemplated transaction;
 4. A certificate of revivor and a certificate of relief from contract voidability issued by the Franchise Tax Board of the State of California.
 5. Requirements which the Company may impose following its review of the above material and other information which the Company may require.
- C. WITH RESPECT TO A FOREIGN LIMITED PARTNERSHIP:
1. A certified copy of the application for registration, foreign limited partnership (form LP-5) and any amendments thereto (form LP-6) to be recorded in the public records;
 2. A full copy of the partnership agreement and any amendment;
 3. Satisfactory evidence of the consent of a majority in interest of the limited partners to the contemplated transaction;
 4. A certificate of revivor and a certificate of relief from contract voidability issued by the Franchise Tax Board of the State of California.
 5. Requirements which the Company may impose following its review of the above material and other information which the Company may require.
- D. WITH RESPECT TO A GENERAL PARTNERSHIP:
1. A certified copy of a statement of partnership authority pursuant to Section 16303 of the California Corporation Code (form GP-I), executed by at least two partners, and a certified copy of any amendments to such statement (form GP-7), to be recorded in the public records;
 2. A full copy of the partnership agreement and any amendments;
 3. Requirements which the Company may impose following its review of the above material required herein and other information which the Company may require.
- E. WITH RESPECT TO A LIMITED LIABILITY COMPANY:
1. A copy of its operating agreement and any amendments thereto;
 2. If it is a California limited liability company, a certified copy of its articles of organization (LLC-1) and any certificate of correction (LLC-11), certificate of amendment (LLC-2), or restatement of articles of organization (LLC-10) to be recorded in the public records;
 3. If it is a foreign limited liability company, a certified copy of its application for registration (LLC-5) to be recorded in the public records;
 4. With respect to any deed, deed of trust, lease, subordination agreement or other document or instrument executed by such limited liability company and presented for recordation by the Company or upon which the Company is asked to rely, such document or instrument must be executed in accordance with one of the following, as appropriate:
 - (i) If the limited liability company properly operates through officers appointed or elected pursuant to the terms of a written operating agreement, such documents must be executed by at least two duly elected or appointed officers, as follows: the chairman of the board, the president or any vice president, and any secretary, assistant secretary, the chief financial officer or any assistant treasurer;
 - (ii) If the limited liability company properly operates through a manager or managers identified in the articles of organization and/or duly elected pursuant to the terms of a written operating agreement, such document must be executed by at least two such managers or by one manager if the limited liability company properly operates with the existence of only one manager.
 5. A certificate of revivor and a certificate of relief from contract voidability issued by the Franchise Tax Board of the State of California.
 6. Requirements which the Company may impose following its review of the above material and other information which the Company may require.
- F. WITH RESPECT TO A TRUST:

1. A certification pursuant to Section 18100.5 of the California Probate Code in a form satisfactory to the Company.
 2. Copies of those excerpts from the original trust documents and amendments thereto which designate the trustee and confer upon the trustee the power to act in the pending transaction.
 3. Other requirements which the Company may impose following its review of the material require herein and other information which the Company may require.
- G. WITH RESPECT TO INDIVIDUALS:
1. A statement of information.

The map attached, if any, may or may not be a survey of the land depicted hereon. First American Title Insurance Company expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

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;

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)

NOTICE

Section 12413.1 of the California Insurance Code, effective January 1, 1990, requires that any title insurance company, underwritten title company, or controlled escrow company handling funds in an escrow or sub-escrow capacity, wait a specified number of days after depositing funds, before recording any documents in connection with the transaction or disbursing funds. This statute allows for funds deposited by wire transfer to be disbursed the same day as deposit. In the case of cashier's checks or certified checks, funds may be disbursed the next day after deposit. In order to avoid unnecessary delays of three to seven days, or more, please use wire transfer, cashier's checks, or certified checks whenever possible.

If you have any questions about the effect of this new law, please contact your local First American Office for more details.

Privacy Policy

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

**CLTA/ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (02-03-10)
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
 - (a) building; (d) improvements on the Land;
 - (b) zoning; (e) land division; and
 - (c) land use; (f) environmental protection.This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
 - (a) that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - (b) that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
 - (c) that result in no loss to You; or
 - (d) that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
 - (a) to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - (b) in streets, alleys, or waterways that touch the Land.This Exclusion does not limit the coverage described in Covered Risk 11 or 21.
7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows: For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

Your Deductible Amount	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16: 1% of Policy Amount or \$2,500.00 (whichever is less)	\$10,000.00
Covered Risk 18: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 19: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 21: 1% of Policy Amount or \$2,500.00 (whichever is less)	\$5,000.00

**ALTA RESIDENTIAL TITLE INSURANCE POLICY (6-1-87)
EXCLUSIONS**

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 - (a) and use
 - (b) improvements on the land
 - (c) and division
 - (d) environmental protectionThis exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date. This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:
 - (a) a notice of exercising the right appears in the public records on the Policy Date
 - (b) the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
3. Title Risks:

- (a) that are created, allowed, or agreed to by you
 - (b) that are known to you, but not to us, on the Policy Date -- unless they appeared in the public records
 - (c) that result in no loss to you
 - (d) that first affect your title after the Policy Date -- this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
- (a) to any land outside the area specifically described and referred to in Item 3 of Schedule A OR
 - (b) in streets, alleys, or waterways that touch your land
- This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

**2006 ALTA LOAN POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
- i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement erected on the Land;
 - iii. the subdivision of land; or
 - iv. environmental protection;
- or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- b. Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
- a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - e. resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
- a. a fraudulent conveyance or fraudulent transfer, or
 - b. a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

- 1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- 2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
- 3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
- 4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an

accurate and complete land survey of the Land and not shown by the Public Records.

5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**2006 ALTA OWNER'S POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement erected on the Land;
 - iii. the subdivision of land; or
 - iv. environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- b. Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not Known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - e. resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - a. a fraudulent conveyance or fraudulent transfer; or
 - b. a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (07-26-10)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement erected on the Land;
 - iii. the subdivision of land; or
 - iv. environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- b. Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
 - e. resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - a. a fraudulent conveyance or fraudulent transfer, or
 - b. a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.

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 **PIAZZA HOSPITALITY**, 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 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.
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 _____**, adopted by the City Council on _____, **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 Piazza Hospitality Group, 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 _____, 2024, by City Ordinance No. _____ (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, [REDACTED], is the owner of the Property 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. **Mortgagee Protection.** This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording the Agreement, including the lien of any deed of trust or mortgage (the "Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value.

17. **Miscellaneous.**

17.1 **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.

17.2 **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.

17.3 **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.

17.4 **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.

17.5 **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.

17.6 **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.

17.7 **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.

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

17.9 **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.

17.10 **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.

17.11 **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.

17.12 **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.

17.13 **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.

17.14 **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.

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

17.16 **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.

17.17 **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”

CITY OF SEBASTOPOL,
a municipal corporation

By: _____

Name: _____

Title: City Manager

Dated: _____, 2024

“DEVELOPER”

PIAZZA HOSPITALITY GROUP
a **California limited liability company**

By: _____

Name: _____

Title: _____

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

Exhibit B

Legal Description of the Industrial Property

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 Solano }

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

Exhibit A to Memorandum of Agreement

Legal Description

HANGAR PARCEL
LEGAL DESCRIPTION
2.88 ACRE PARCEL

ALL THAT REAL PROPERTY SITUATE IN THE STATE OF CALIFORNIA, COUNTY OF SOLANO, CITY OF SEBASTOPOL, DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING A PORTION OF THE MAP ENTITLED "MAP OF THE RANCHO LOS ULPINOS," RECORDED IN BOOK 1 OF PATENTS AT PAGES 342 AND 343, SOLANO COUNTY RECORDS, AND ALSO BEING A PORTION OF TOWNSHIP 4 NORTH, RANGE 2 EAST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERLY CORNER OF THE BLACKWELDER PARCEL SHOWN AS INSTRUMENT NUMBER 17842-1958 ON THAT CERTAIN RECORD OF SURVEY RECORDED DECEMBER 29, 1971 IN BOOK 11 OF SURVEYS AT PAGE 98, SOLANO COUNTY RECORDS, SAID POINT ALSO LYING ON THE EASTERLY RIGHT-OF-WAY OF ST. FRANCIS WAY; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY AS SHOWN ON SAID RECORD OF SURVEY NORTH 35°49'25" EAST 40.79 FEET; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY NORTH 54°19'14" WEST 1117.05 FEET; THENCE NORTH 54°36'27" WEST 24.88 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 54°36'27" WEST 440.00 FEET; THENCE SOUTH 80°23'33" WEST 42.43 FEET; THENCE SOUTH 35°23'33" WEST 79.06 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 289.00 FEET, A CENTRAL ANGLE OF 30°28'49" AND AN ARC LENGTH OF 153.74 FEET; THENCE SOUTH 65°52'22" WEST 71.01 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 461.00 FEET, A CENTRAL ANGLE OF 11 °00'25" AND AN ARC LENGTH OF 88.56 FEET; THENCE SOUTH 54°19'14" EAST 242.30 FEET; THENCE NORTH 35°40'46" EAST 87.59 FEET; THENCE NORTH 87°27'12" EAST 463.36 FEET; THENCE NORTH 35°40'46" EAST 0.74 FEET; THENCE NORTH 09°27'50" WEST 35.27 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 2.88 ACRES MORE OR LESS.