



AGREEMENT BETWEEN

COUNTY OF SAN MATEO

AND

PENINSULA OPEN SPACE TRUST

AND

FIFTH CROW FARM

TO ASSIST WITH

CONSTRUCTION OF FARMWORKER HOUSING AT 4309
CLOVERDALE ROAD, PESCADERO, CALIFORNIA

Contact Person: Anthony Parenti
Email: aparenti@smchousing.org
Phone: 650-802-3379

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
PENINSULA OPEN SPACE TRUST AND FIFTH CROW FARM**

THIS AGREEMENT, entered into this _____ day of _____, 2024 by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California (“County”); PENINSULA OPEN SPACE TRUST, a California non-profit public benefit corporation (“POST”); and FIFTH CROW FARM, a California general partnership (“Fifth Crow”). POST and Fifth Crow are sometimes referred to herein individually as a “Borrower,” and collectively as the “Borrowers.” County and Borrowers may be collectively referred to herein as “Parties” and individually as a “Party.”

WITNESSETH:

WHEREAS, since 2014 the San Mateo County Board of Supervisors has allocated funds to address the need for agricultural workforce housing, including for the Farm Labor Housing Pilot Program – a loan program to help fund the repair, replacement, or creation of agricultural workforce housing (the “Program”); and

WHEREAS, in January 2017 and in 2022, the County expanded the Program to support construction of new housing, the addition of new mobile home units, and updated the Program guidelines; and

WHEREAS, the Program is funded by revenues generated by Measure K, the ½ cent sales tax in effect in the County; and

WHEREAS, in January 2017, under Phase III of the Program, the County provided interest free loans of up to \$150,000 for each new unit (“Project Unit”) created and required applicants to contribute 20 percent of the value of the County loan to the Project Units. The loans were interest free and forgiven at a rate of \$10,000 per year per Project Unit, if the operator met the mandatory terms and conditions of the loan documents; and

WHEREAS, in 2022, the Program expanded to its current standards, which allow the County to provide interest free loans of up to \$250,000 for each new unit created; and

WHEREAS, POST owns a partial, undivided fee interest in the property located at 4309 Cloverdale Road, Pescadero, CA 94060 (APN 086-270-010) (the "Property") as more particularly described in Exhibit A; and

WHEREAS, POST holds its fee interest in the Property as a tenant in common with Midpeninsula Regional Open Space District, an independent special district formed pursuant to California Public Resources Code § 5500 et seq. ("MidPen"), which also owns a partial, undivided fee interest in the Property; and

WHEREAS, POST leases a portion of the Property to Fifth Crow for operation of a farm; and

WHEREAS, Borrowers wish to construct four new housing units on the portion of the Property leased to Fifth Crow for use by the agricultural workforce, and have applied to the County for funding assistance under the Program; and

WHEREAS, the County desires to provide to the Borrowers a loan in a total amount not to exceed \$900,000 for the construction of four new housing units on the Property for use by the agricultural workforce ("Project").

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits

The following exhibits ("Exhibits") are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A – Property Description
- Exhibit B – Project Description
- Exhibit C – Disbursement and Rates
- Exhibit D – Intentionally Omitted
- Exhibit E – Project Sources and Uses Budget
- Exhibit F – Affordability Covenant
- Exhibit G – Promissory Note
- Exhibit H – Deed of Trust and Assignment of Rents

2. Services to be Performed by Borrowers

In consideration for the funding assistance set forth herein and in Exhibit C, and as further specified in this Agreement and attached Exhibits, Borrowers shall perform the services (hereinafter referred to as the "services" or the "work") necessary to implement the Project as described in Exhibit B.

3. Disbursements

Subject to Borrowers' satisfactory performance of the terms and conditions set forth herein, including but not limited to Exhibit B, County shall disburse funds, as defined below, to Borrowers in accordance with the rates and in the manner specified in Exhibit C. County reserves the right to withhold disbursements if County determines that Borrowers' performance of applicable terms and conditions is unacceptable or documentation evidencing performance is unacceptable; provided however that County shall provide Borrower with 45 days' notice and opportunity to cure before withholding disbursements. In no event shall County's total fiscal obligation under this Agreement exceed **Nine Hundred Thousand Dollars and Zero Cents (\$900,000.00)** (the "Loan").

4. Security

Concurrently with this Agreement, Borrowers will execute a Promissory Note ("Note") in the form attached hereto as Exhibit G, pursuant to which they promise to repay the County for the Loan as set forth in the Note. The Note shall be secured by a Deed of Trust executed the same date as the Note ("Deed of Trust") and in the form attached hereto as Exhibit H. Borrowers acknowledge that the Note is given in connection with the Borrowers' acceptance of the Loan to rehabilitate, reconstruct, or replace inadequate housing or create new housing dedicated to the agricultural workforce.

Borrowers represent and warrant that: (i) Borrowers shall be jointly and severally liable for satisfying the terms and conditions of this Agreement and for any liabilities arising out of the Agreement; (ii) nothing in this Agreement is contrary to or in conflict with POST's obligations under its tenancy in common interest in the Property with MidPen or under any associated agreement with MidPen in connection with said tenancy in common; and (iii) POST's undivided fee interest in the Property is sufficient to secure the full amount of the Loan.

5. Contribution of Non-County Funds

Borrowers must contribute their own non-County funds toward completion of the Project in an amount equal to at least 20 percent of the total Project costs. Therefore, Exhibit C provides for reimbursement of 80 percent of the eligible costs incurred and submitted to County for reimbursement by Borrowers. County reserves the right to withhold disbursements if County determines that Borrowers have contributed less than the required amount.

6. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2022 until the expiration of the Affordability Covenant or the Compliance Period, both as defined in Exhibit B, whichever such event occurs later.

County may terminate this Agreement for cause after giving Borrowers written notice of any breach or default under this Agreement and after the expiration of 45 days from the date of such notice to cure said breach or default, if Borrowers fail to cure said breach or default to the satisfaction of County, in County's sole reasonable discretion; provided however, if the breach or default is curable but not of the nature which can be readily cured within 45 days, and Borrowers have commenced to cure such breach or default within the 45 day period and are diligently pursuing such cure to completion, Borrowers shall have such additional period of time as is reasonably necessary to cure the breach or default. If Borrowers fail to cure or commence to cure within the 45 day period, County may pursue all rights and remedies available under this Agreement, and under the accompanying Note, Deed of Trust, and Declaration of Affordability Covenant (described in Exhibit B), including without limitation, acceleration of the Note.

Upon termination of this Agreement due to Borrowers' breach or default, the entire balance of Note shall be immediately due and payable.

County reserves the right to waive any and all breaches of this Agreement, and any such waiver will not be deemed a waiver of all previous or subsequent breaches. In the event County chooses to waive a particular breach of this Agreement, it may condition same on payment by Borrowers of County's actual damages occasioned by such breach of Agreement and shall make every effort to resolve the same quickly and amicably.

7. Availability of Funds

Notwithstanding any other provision in this Agreement, County may terminate this Agreement, or any portion thereof, based upon unavailability of County funds by providing written notice to Borrowers as soon as is reasonably possible after County learns of said unavailability of such funding.

8. Relationship of Parties

Borrowers agree and understand that work/services performed pursuant this Agreement are performed by Borrowers as conditions of receiving loan funding, and not as employees of or in joint venture with County and that neither Borrowers nor their employees acquire any of the rights, privileges, powers, or advantages of County employees.

9. Hold Harmless

Borrowers shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Borrower under this Agreement, or loan disbursement made pursuant to this Agreement, brought for, or on account of, any of the following:

- A) Injuries to or death of any person, including Borrower or its employees/officers/agents; or
- B) Damage to any property of any kind whatsoever and to whomsoever belonging; or
- C) Any sanctions, penalties, or claims of damages resulting from Borrower's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- D) Any other loss or cost.

It is the intent of the Parties to this Agreement to provide the broadest possible indemnity coverage for the County. However, Borrower's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County is solely liable by reason of its own negligence or willful misconduct.

The duty of Borrowers to indemnify and save harmless as set forth in this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

10. Assignability and Subcontracting

Except as permitted in the Deed of Trust or elsewhere in this Agreement, neither Borrower shall assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by either Borrower under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent

will give County the right to automatically and immediately terminate this Agreement. Notwithstanding the foregoing restrictions:

- A) Borrowers may, with County's prior written consent, assign their rights and obligations under this Agreement to a limited partnership formed to develop and own the Project. In connection with such assignment, County and Borrowers acknowledge and agree that this Agreement and any other loan documents may be amended and restated to reflect such assignment.
- B) Borrowers are specifically authorized to use one or more third party(ies) or subcontractor(s) subject to County's written consent which consent shall not be unreasonably withheld, to complete construction and development of all or any portion of the Project, provided that Borrowers shall be fully responsible for all acts and omissions of subcontractors, sub-subcontractors, and of persons directly or indirectly employed or retained by them to the same extent that Borrowers are responsible for the acts and omissions of persons directly employed by Borrowers. County's consent under this section shall be deemed given unless County disapproves by written notice to Borrowers the proposed third party(ies) or subcontractor(s) within ten (10) days after Borrowers provide notice to County of such proposed third party(ies) or subcontractor(s). Borrowers shall ensure that its subcontractors comply with all duties/conditions of this Agreement. For purposes of this Agreement, "third party(ies) or subcontractor(s)" shall not include employees of either Borrower.
- C) POST is authorized to assign to Fifth Crow all of its rights and obligations under this Agreement, provided that Fifth Crow executes documentation reasonably satisfactory to the County to document the assignment, provided however that such assignment will not be authorized unless Fifth Crow is assigned or otherwise acquires fee interest in the Property that is sufficient to ensure the Loan is secured by the Deed of Trust to the same extent as under POST's undivided fee interest.

11. **Insurance**

Neither Borrower shall commence work on the Project or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Borrowers shall use diligence to obtain such insurance and to obtain such approval. Borrowers shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending each Borrower's coverage to include the contractual liability assumed by each Borrower pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any cancellation of the policy for reasons other than non-payment of premium, and ten (10) days' notice of cancellation of the policy for non-payment of premium.

- A) **Workers' Compensation and Employer's Liability Insurance.** Each Borrower shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, each Borrower certifies, as required by Section 1861 of the California Labor Code:

- i. That it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and
- ii. That it will comply with such provisions before commencing the performance of work under this Agreement.

B) **Liability Insurance.** Each Borrower shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect the Borrower and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from the Borrower's operations funded under this Agreement, whether such operations be by the Borrower, any subcontractor, anyone directly or indirectly employed by either of them, or by an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amount specified below.

Such insurance shall include:

- i. Comprehensive General Liability \$1,000,000 per occurrence
- ii. Motor Vehicle Liability Insurance \$1,000,000
- iii. Professional Liability. \$1,000,000

C) **General Contractor's Insurance.** At or before the start of construction, Borrowers shall cause any general contractor hired to construct any part of the Project to furnish County with certificates of insurance evidencing the required coverages listed below.

- i. Builder's Risk Full value of construction contract
- ii. Worker's Compensation Statutory limits
- iii. General Liability \$1,000,000 per occurrence

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further disbursement of funding pursuant to this Agreement until the breach is cured.

Notwithstanding the foregoing, County acknowledges that Borrowers may have commenced certain work by placing a deposit on home units, obtaining a Coastal Development Permit and a cultural resources survey in connection with the Project prior to execution of this Agreement. If such specified work is otherwise compliant with the requirements of this Agreement, Borrowers may request reimbursement for the costs of such work pursuant to Exhibit C and County shall not withhold such reimbursement on the grounds that the work violates this Section 11.

12. Compliance with Laws; Payments of Permits/Licenses

All services to be performed by either Borrower pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event

of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Borrowers will timely and accurately complete, sign, and submit all necessary documentation of compliance at County's request, which request shall include reference to the specific laws, ordinances, and/or regulations for which County seeks documentation of compliance.

13. Non-Discrimination and Other Requirements

- A) *General non-discrimination.* No person shall be denied any services provided pursuant to this Agreement (except as limited by Exhibit B) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.
- B) *Equal employment opportunity.* Each Borrower shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Each Borrower's equal employment policies shall be made available to County upon request.
- C) *Compliance with Equal Benefits Laws.* Borrowers shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Borrowers' employee is of the same or opposite sex as the employee.
- D) *Discrimination Against Individuals with Disabilities.* The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Borrowers and any subcontractors shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.
- E) *History of Discrimination.* Borrowers each certify as to themselves that no finding of discrimination has been issued in the past 365 days against Borrower by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against either Borrower within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, such Borrower shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.
- F) *Violation of Non-discrimination provisions.* Each Borrower shall also report to the County the filing by any person in any court any complaint of discrimination or the

filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation of allegations of discrimination within seventy-five (75) days of such filing, provided that within such seventy-five (75) days such entity has not notified Borrower that such charges are dismissed or otherwise unfounded. Such notification to County shall include a general description of the allegations and the nature of specific claims being asserted. Such Borrower shall provide County with a statement regarding how it responded to the allegations within sixty (60) days of its response and shall update County regarding the nature of the final resolution of such allegations.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Borrower to penalties, to be determined by the County Executive Officer, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Borrower from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Executive Officer.

To effectuate the provisions of this Section, the County Executive Officer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Borrowers under this Agreement or any other agreement between Borrowers and County.

14. Compliance with County Employee Jury Service Ordinance

Each Borrower shall comply with Chapter 2.85 of the County's Ordinance Code, which states that a Borrower shall have and adhere to a written policy providing that its employees, to the extent they live in San Mateo County, shall receive from Borrower, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Borrower or that Borrower may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, each Borrower certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Borrower has no employees in San Mateo County, it is sufficient for Borrower to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Borrower certifies that it has no employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Borrower shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code."

15. Retention of Records, Right to Monitor and Audit

(a) Each Borrower shall maintain all records related to this Agreement for no fewer than five (5) years after County makes final payment and all other pending matters are closed. All records

shall be subject to the examination and/or audit of County, the State of California, and/or any other regulatory agencies.

(b) Reporting and Record Keeping: Each Borrower shall comply with all program and fiscal reporting requirements set forth by the County, the State of California, and/or any other regulatory agencies.

(c) Each Borrower agrees upon reasonable notice to provide to County, the State of California and/or any other regulatory agencies access to and the right to examine all records and documents necessary to determine compliance with applicable law, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed. Such examination may include, but is not limited to, verification of Borrower-completed Tenant Profile form, containing demographic information such as race/ethnicity, and income verification will be completed on an annual basis. If resident refuses to provide race/ethnicity, Borrower may make a note in the form that the resident declined to answer.

16. Merger Clause & Amendments

This Agreement, including the Exhibits attached to this Agreement and incorporated herein by reference, constitutes the sole agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties. If at any time the Property is subdivided or the lot lines of the Property are adjusted, the Parties shall amend the Note, the Deed of Trust, and this Agreement such that the definition of Property and its legal description is the parcel that contains, or will contain, the four units proposed to be constructed pursuant to this Agreement.

17. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law rules. Any dispute arising out of this Agreement shall be venued in the San Mateo County Superior Court.

18. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both:

- A) Transmitted via email to the email address listed below; and
- B) Sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:	In the case of Borrowers, to:
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<p>Name/Title: Raymond Hodges, Director Department of Housing County of San Mateo</p> <p>Address: 264 Harbor Blvd., Bldg. A Belmont, CA 64002-4017</p> <p>Telephone: 650-802-3389 Facsimile: 650-802-5049 Email: rhodges@smchousing.org</p>	<p>Name/Title: Peninsula Open Space Trust Attn: Laura O'Leary</p> <p>Address: 222 High Street Palo Alto, CA 94301</p> <p>Telephone: 650-352-6239</p> <p>Email: lolarey@openspacetrust.org</p> <p>and</p> <p>Name/Title: Fifth Crow Farm Attn: Teresa Kurtak</p> <p>Address: P.O. Box 527 Pescadero, CA 94060</p> <p>Telephone: 831-600-5452</p> <p>Email: teresa@fifthcrowfarm.com</p>
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19. Electronic Signature

Both County and Borrowers wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo No. B-29. Any party may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

THIS CONTRACT IS NOT VALID UNTIL SIGNED BY ALL PARTIES

REST OF PAGE DELIBERATELY LEFT BLANK

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO, a political subdivision of the State of California

By: _____
Raymond Hodges, Director, Department of Housing, County of San Mateo

Date: _____

BORROWER: PENINSULA OPEN SPACE TRUST, a California non-profit public benefit corporation

By: _____
Borrower's Signature (blue ink only)

Print Name: _____

Print Title: _____

Date: _____

BORROWER: FIFTH CROW FARM, a California general partnership

By: _____
Borrower's Signature (blue ink only)

Print Name: _____

Print Title: _____

Date: _____

Exhibit A
Property Description

LEGAL DESCRIPTION

Real property in the Town of Pescadero, County of San Mateo, State of California, described as follows:

PARCEL ONE:

BEGINNING at the Northwest corner of that certain 71.80 acre tract of land conveyed from Peninsula Farms Company, a California corporation, to Fred Marsh by deed dated January 19, 1926 and recorded February 9, 1926 in Book 208 of Official Records of San Mateo County at page 481, said corner being formed by courses numbered "(23)" and "(24)" in said deed; thence from said place of beginning along the Westerly boundary of said 71.80 acre tract of

land:

- (1) South 25° 57' West, 70.0 feet; thence
- (2) South 11 ° 55' East, 95.0 feet; thence
- (3) South 29° 25' East, 315.0 feet; thence
- (4) South 47° 45' East, 167.3 feet; thence
- (5) South 22° 25' West, 152.31 feet, more or less, to a corner in the Northeasterly boundary of that certain piece or parcel of land conveyed from Shoreland Properties, Inc., a California corporation, to C. L. Cummins and wife, by deed dated July 22, 1949 and recorded July 22, 1949 in Book 1691 of Official Records of San Mateo County at page 33 (944-I) from which corner a 1-1/2 inch diameter iron pipe set at the Southwesterly gate and fence corner near the locus of 114 x 4 post marked "N" referred to in the first above mentioned conveyance under course numbered "(18)" therein bears South 28° 04-1/2' West, 49.3 feet distant; thence leave the boundary of said 71.80-acre tract of land and running along the Northwesterly boundary of said Cummins piece or parcel of land:
- (6) North 30° 30' West, 238.94 feet; thence
- (7) North 64° 15' West, 126.57 feet; thence
- (8) South 74° 07' West, 255.76 feet; thence
- (9) North 58° 31-1/2' West, 193.47 feet; thence
- (10) South 29° 25' West, 305.4 feet; thence
- (11) North 88° 54' West, 418.00 feet; thence
- (12) North 80° 32-1/2' West, 104.23 feet; thence
- (13) North 65° 33-1/2' West, 302.07 feet; thence
- (14) South 89° 44-1/2' West, 520.56 feet; thence
- (15) North 71° 17' West, 578.72 feet; thence
- (16) South 55° 53' West, 1992.96 feet; thence
- (17) North 84° 51-1/2' West, 710.84 feet; thence
- (18) South 35° 20' 04" West, 1089.16 feet; thence
- (19) South 77° 32' 01" West, 308.15 feet; thence
- (20) North 80° 45' West, 518.33 feet; thence
- (21) South 89° 15' West, 366.73 feet; thence

(22) South 64° 54-1/2' West, 501.64 feet to corner fence post standing at the most Westerly corner of said piece or parcel of land heretofore conveyed to Cummins;

thence leave last mentioned boundary and running

(23) North 13° 57-1/4' West, 5818.63 feet at 648.8 feet to a 2" x 3" redwood post, at 739.4 feet a 2" x 3" redwood post, at 923.5 feet, a 2" x 3" redwood post, at 1120.6 feet a 2" x 3" redwood post, at 1411.2 feet, a 2" x 3" redwood post, at 1706.7 feet a 2" x 3" redwood post, at 2241.0 feet a 2" x 3" redwood post, at 2832.7 feet a 2" x 3" redwood post, at 3422.0 feet a 3/4" diameter iron pipe, at 4336.1 feet a 1/2" diameter iron pipe, at 4941.7 feet a 2" x 3" Redwood post, at 5754.0 feet to a 2" x 3" redwood post, at 5816.4 feet a boat spike set in the center line of the pavement, 5818.63 feet to a point in the center line of the Santa Cruz-Pescadero County Road (50 feet wide), as said road is shown and so designated on Sheet 7 of that certain Map entitled, "Peninsula Farms Company's Subdivision No. 1", which Map was filed in the Office of the Recorder of the County of San Mateo, State of California on January 8, 1923 in Book 11 of Maps at pages 18, 19, 20, 21, 22, 23, 24, 25 and 26;

thence along said road center line as shown on said Filed Map:

(24) South 43° East, 310.8 feet; thence

(25) South 79° 59' East, 110 feet; thence

(26) North 75° 35' East, 120 feet; thence

(27) North 47° 27' East, 80 feet; thence

(28) North 18° 27' East, 160 feet; thence

(29) North 4° 54' East, 110 feet; thence

(30) North 22° 03' West, 140 feet; thence

(31) North 3° 21' West, 150 feet; thence

(32) North 44° 36' West, 90 feet; thence

(33) North 19° 51' West, 80 feet; thence

(34) North 30° 09' East, 100 feet; thence

(35) North 59° 07' East, 120 feet; thence

(36) North 27° 54' East, 90 feet; thence

(37) North 3° 37' West, 440 feet; thence

(38) North 34° 50' West, 170 feet; thence

(39) North 69° 25' West, 100 feet; thence

(40) North 89° 27' West, 100 feet; thence

(41) North 67° 08' West, 130 feet; thence

(42) South 87° 05' West, 150 feet; thence

(43) North 20° 02' West, 82 feet, at 41 feet the Easterly corner common to LOTS 13 and 14 of said Subdivision from which corner a 4" x 4" redwood post, top flush with the ground bears along the boundary common to said LOTS 13 and 14, South 37° 26' West, 29.65 feet distant, 82 feet to station; thence

(44) North 54' 31' East, 265 feet; thence

(45) North 13° 42' East, 200 feet to junction of roads, as shown on said Filed Map; thence along the center line of the road to Pescadero

(46) North 43° 22' East, 221.5 feet to intersection with the Northeasterly boundary of the Rancho Punta del Ano Nuevo, as patented, a copy of which Patent is on file in Book 3 of Patents at page 136, records of San Mateo County;

thence leave last mentioned road center line and running along said Rancho boundary, as patented:

(47) South 37° 30' East, 291.6 feet, more or less, to Station No. 138 of the Patent Survey of said Rancho;

thence continuing along said Rancho line

(48) South 21 ° 15' East, 627 feet;

(49) South 19° 30' East, 429 feet;

(50) South 5° 30' East, 264 feet;

(51) South 61° 45' East, 1122 feet;

(52) South 24° 15' East, 429 feet;

(53) South 16° 30' West, 726 feet

(54) South 64° 15' East, 4818.00 feet, more or less, to an angle point in said Rancho line; thence continuing along said Rancho line

(55) South 89° 07' 05" East, 2122.2 feet to a point from which a 1-1/2" diameter brass capped pipe standing at corner No. 11P.A. N. 130" of said Rancho bears along said boundary, South 89°07' 05" East, 1865.6 feet distant;

thence leave said Rancho boundary and running

(56) South 0° 52' 55" West, 20.0 feet to the PLACE OF BEGINNING.

The basis of bearings for this description are taken from the records of San Mateo County and course herein designated "{23}" is based on the bearings of said 71.80 acre tract of land.

EXCEPTING THEREFROM so much as lies within:

(a) the County Road conveyed by Loren Coburn and Jeremiah Clarke to the County of San Mateo by deed dated July 14, 1880 and recorded July 20, 1880 in Book 32 of Deeds at page 623, records of San Mateo County.

(b) the County Road leading from the Marin County Road to Pebble Beach, condemned by the County of San Mateo and decreed to the County of San Mateo by Decree dated September 14, 1897 and recorded September 15, 1897 in Book 76 of Deeds at page 128, records of San Mateo County.

(c) that portion conveyed by Shoreland Properties, Inc., a corporation, to County of San Mateo by deed dated July 30, 1941 and recorded August 14, 1941 in Book 966 of Official Records of San Mateo County at page 451 (29199E) for a re-alignment of Pebble Beach Road.

EXCEPTING THEREFROM so much as conveyed to Thelma A. Keyes in Quitclaim Deed recorded November 5, 1965, Volume 5057, page 576, San Mateo County records.

TOGETHER WITH so much as may have been acquired by John Dias and Sons, a Co-Partnership in Quitclaim Deed recorded November 5, 1965, Volume 5057, page 574.

PARCEL ONE-A:

A NON-EXCLUSIVE RIGHT OF WAY 40 feet wide, lying 20 feet on each side of the following described center line:

BEGINNING at a point in the Westerly side of the County Road leading from Pescadero up the Butane Valley, from which the POINT OF BEGINNING of the hereinabove described 466.9 acre tract of land bears North 89° 07' 05" West 590.0 feet distant and running thence from said point of beginning:

- (a) North 89° 07' 05" West 590.0 feet to said point of beginning and thence along the Easterly boundary of the hereinabove described 466.9 acre tract of land
- (b) South 25° 57' West 70.0 feet; thence
- (c) South 11 ° 55' West 95.00 feet; thence
- (d) South 29° 25' East 315.00 feet; thence
- (e) South 47° 45' East 167.3 feet; thence
- (f) South 22° 25' West 152.31 feet to said corner in the Northeasterly boundary of said Cummins place or parcel of land.

Said easement is appurtenant to the lands of Dias, as granted in deed recorded July 10, 1951, Book 2098, page 471, San Mateo County records

PARCEL TWO:

BEGINNING at the most Southerly corner of that certain 466.9 acre tract of land conveyed from Shoreland Properties, Inc., a california corporation, to John E. Dias et al, by deed dated July 9, 1951 and recorded July 10, 1951 in Book 2098 of Official Records of San Mateo County at page 471 (47296-J); said corner being formed by courses numbered "(22)" and "(23)" in said deed; thence from said PLACE OF BEGINNING along the Westerly boundary of said 466.9 acre tract of land, North 13° 57' 1/4" West, 5,818.63 feet, at 648.8 feet a 2 inch by 3 inch redwood post, at 739.4 feet a 2 inch by 3 inch redwood post, at 923.5 feet a 2 inch by 3 inch redwood post, at 1,120.6 feet a 2 inch by 3 inch redwood post, at 1,411.9 feet a 2 inch by 3 inch redwood post, at 1,706.7 feet a 2 inch by 3 inch redwood post, at 2,241.0 feet a 2 inch by 3 inch redwood post, at 2,832.7 feet a 2 inch by 3 inch redwood post, at 3,422.0 feet a 3/4 inch diameter iron pipe, at 4,336.1 feet a 1/2 inch diameter iron pipe, at 4,941.7 feet a 2 inch by 3 inch redwood post, at 5,754.0 feet a 2 inch by 3 inch dedwood post, at 5,816.4 feet a boat spike set in the center line of the pavement, 5,818.63 feet to a point in the center line of the Santa Cruz-Pescadero County Road (SO feet wide) as said road is shown and so designated on Sheet 7 of that certain Map entitled, "Peninsula Farms Company's Subdivision No. 1", which Map was filed in the Office of the Recorder of the County of San Mateo, State of california on January 8, 1923 in Book 11 of Maps at pages 18, 19, 20, 21, 22, 23, 24, 25 and 26; thence along said road center line, as shown on said filed Map, North 48° West, 69.2 feet; thence South 87° 02' West, 100.0 feet; thence South 38° 07' West, 100.0 feet;

thence South 7° 13' West, 230.0 feet;
thence South 9° 15' East, 230.0 feet;
thence South 30° 36' West, 600.0 feet;
thence South 19° 15' West, 120 feet;
thence South 8° 30' East, 100.0 feet;
thence South 27° 41' East, 90.0 feet;
thence South 13° 54' West, 70.0 feet;
thence South 79° 19' West, 200.0 feet;
thence South 59° 40' West, 310.0 feet;
thence South 36° 36' West, 146.4 feet to a metal pin set in the pavement standing at the most Northerly corner of that certain 74.275 acre tract of land conveyed from Shoreland Properties, Inc., a California corporation, to Arthur Koch et ux, by deed dated July 11, 1950 and recorded July 13, 1950 in Book 1895 of Official Records of San Mateo County at page 545, from which pin a 1 inch diameter iron pipe, top 12 inches underground, bears North 38° 32' West, 25.86 feet distant and a U.S.G.S. brass capped monument marked "Z-211" bears North 41° 47' West, 25.56 feet distant;
thence leave said road center line and running along the Northeasterly boundary of said 74.275 acre tract of land South 38° 32' East, 2,081.8 feet, at 24.8 feet a 2 inch diameter iron pipe, at 287.6 feet a 2 inch by 3 inch redwood post, at 588.8 feet a 2 inch by 3 inch redwood post, at 888.4 feet a 2 inch by 3 inch redwood post, at 1,187.9 feet a 2 inch by 3 inch redwood post, at 1,485.6 feet a 2 inch by 3 inch redwood post, at 1,785.7 feet a 2 inch by 3 inch redwood post, 2,081.8 feet to a 2 inch diameter iron pipe standing at the most Easterly corner of said 74,275 acre tract of land;
thence leave last mentioned boundary and running South 26° 32' 20" East, 2,613.6 feet, at 263.9 feet a 2 inch by 3 inch redwood post, at 533.4 feet a 2 inch by 3 inch redwood post, at 798.0 feet a 2 inch by 3 inch redwood post, at 1,093.5 feet a 2 inch by 3 inch redwood post, at 1,389.6 feet a 2 inch by 3 inch redwood post, at 1,672.1 feet a 2 inch by 3 inch redwood post, at 2,165.9 feet a 2 inch by 3 inch redwood post, at 2,190.7 feet a 2 inch by 3 inch redwood post, at 2,347.5 feet a 2 inch by 3 inch redwood post, 2,613.6 feet to the PLACE OF BEGINNING.

EXCEPTING THEREFROM so much as lies within the County Road, conveyed by Loren Coburn and Jeremiah Clarke to the County of San Mateo, by deed dated July 14, 1880 and recorded July 20, 1880 in Book 32 of Deeds at page 623, records of San Mateo County.

Assessor's Parcel Number: 086-270-010
Joint Plant Number: 086-027-270-01 A

PARCEL THREE:

BEGINNING at the corner common to Sections 10 and 11, 14 and 15 of Township 8 South, Range 8 West, M. D. M.;

thence South 0° 20' West, 3017.52 feet to the North boundary of the Butane Ranch at a point where the same is intersected by the dividing line between Sections 14 and 15;

thence along said North boundary of the Butane Ranch, North 64° 15' West, 4471.62 feet (as the said boundary line of said Butano Ranch is designated and delineated in the description and upon the Map of said Butane Ranch annexed to the Patent of said Butane Ranch from the United States to Manuel Rodriguez), bearing date of 30th day of April 1866 and which was on September 24, 1872, recorded in Volume 1 of Patents at page 361 et seq., records of San Mateo County, California;

thence leaving said Butano Ranch line and running North 28° 15' East, 412.5 feet;

thence South 86° 45' East, 709.5 feet;

thence North 82° 45' East, 267.3 feet;

thence South 31 ° 15' East, 16.5 feet;

thence North 52° 15' East, 99.0 feet;

thence North 14° 15' East, 693.0 feet to a point on the East line of the Pescadero Rancho at a point where the same is intersected by the dividing line between Sections 10 and 15;

thence on and along said Pescadero Ranch line, North 5° East, 523.15 feet;

thence leaving said ranch line, North 22° West, 1012.4 feet;

thence North 14° East, 198 feet;

thence North 82° 47' West, 93.0 feet to a point on the dividing line between the Weeks Estate and the lands of the Pescadero Creamery Company;

thence North 9° West, 67 .5 feet;

thence South 81 ° West, 161 feet;

thence leaving the line of the said Pescadero Creamery Company and running along the dividing line between the Weeks Estate and the lands of George Ellis, North 10° 40' East, 229.0 feet;

thence North 15° 31' East, 27.5 feet;

thence North 23° 49' East, 101 feet;

thence North 36° 48' East, 44.92 feet;

thence North 53° 52' East, 30.66 feet;

thence North 81° 22' East, 44.64 feet;

thence South 86° 39' East, 330.91 feet to the Southeasterly corner of the lands of George Ellis;

thence South 86° 39' East, 12.7 feet;

thence South 61° 47' East, 36.6 feet;

thence South 47° 53' East, 176.9 feet;

thence South 87° 55' East, 109.16 feet;

thence South 86° 14' East, 151.7 feet;

thence North 82° 08' East, 108.9 feet to a point on the East line of San Gregorio Street;

thence North 87° 24' East, 111.72 feet;

thence North 43° 17' East, 120.70 feet;

thence North 8° 45' West, 808.93 feet to a point on the South line of Main Street, as shown on the Map of Pescadero;

thence and along said line of Main Street, North 80° 45' East, 1159.12 feet;

thence North 55° 13' East, 525.0 feet;
thence North 52° 16' East, 145.0 feet;
thence North 73° 51' East, 381.4 feet to a point on the dividing line between Sections 10 and 11;
thence South 0° 20' West, 3510 feet on and along said dividing line between Sections 10 and 11 to the POINT OF BEGINNING.

EXCEPTING THEREFROM so much as conveyed to the County of San Mateo by deed recorded February 9, 1961 in Volume 3932, page 297.

ALSO EXCEPTING THEREFROM so much as conveyed to Thelma A. Keyes in Quitclaim Deed recorded November 5, 1965, Volume 5057, page 576, San Mateo County records.

TOGETHER WITH so much as may have been acquired by John Dias and Sons, a Co-partnership in Quitclaim Deed recorded November 5, 1965, Volume 5057, page 574.

Assessor's Parcel Number(s): 086-080-010;
086-041-020
Joint Plant Number(s): 086-008-080-01 A;
086-004-041-02 A

PARCEL FOUR:

COMMENCING at the Southwest corner of Manuel Goularte's land and running 5. 71° 15' W. ten chains and eight links (10.80) to intersection of a fence on the West boundary of Section Eleven Township 8 South Range 5 West Mt. Diablo Meridian;
thence N. 0° 15' E. twenty chains thirty links (10.30);
thence S. 89° 30' E. five chains and ninety-seven links (5.97);
thence South 12° W. seventy-nine (79.00) links;
thence S. 23° E. six (6.00) chains;
thence S. 77° East two chains and twenty-six links (2.26) to the NW corner of Manual Goulart's (sic) land;
thence S. 0° 15' W. Nine (9.50) chains and fifty links to PLACE OF BEGINNING.

Containing 16 16/100 acres more or less and being a part of the W ½ of SW¼ Sec. 11 Township 8 South Range 5 W. Mount Diablo Meridian.

Being property conveyed by deed from Joseph Levy to Albion Weeks, dated 20th day of January 1894, recorded 23rd of January, 1894, recorded in Book 66 of Deeds at pages 187 & 188.

EXCEPTING THEREFROM so much as conveyed by Alma F. Huff to Joseph V. Nunes in deed recorded May 18, 1910 in Book 179 of Deeds, page 285.

Assessor's Parcel Number: 086-050-030

Joint Plant Number: 086-005-050-03 A

Exhibit B
Project Description and Requirements

In consideration of the payments set forth in Exhibit C and also described below, Borrowers shall undertake the following activities and comply with the following restrictions and requirements (collectively referred to as the “services” or “work”):

1. **Project Description**

Name of Project: 4309 Cloverdale Road

Project Location / Address: 4309 Cloverdale Road, Pescadero, CA 94060

Assessor’s Parcel Number(s): 086-270-010

Total # of Units Proposed: 4

Total # of Affordable Units Proposed: 4

Summary Project Description: POST holds an undivided, partial fee interest in the Property and Fifth Crow holds a lease covering a portion of the Property, which it uses for an agricultural operation. The Borrowers propose to construct four new units (2 duplexes) on the Property within the leased portion to serve as farmworker housing (“Project”). Total Project costs are anticipated not to exceed \$1,390,000 as shown in Exhibit E.

Sources of Committed Funds: Funding provided in this Agreement is from San Mateo County Measure K funds approved for the Farm Labor Housing Loan Program.

Measure K / Farm Labor Housing	TOTAL
\$900,000	\$900,000

Required Contribution of Borrower Funds: Borrowers must contribute their own, non-County funds toward completion of the Project. Borrowers’ contribution must be at least 20 percent of the total Project costs.

Project Sources & Uses Development Budget: The budget detailed in Exhibit E of this Agreement represents current financing projections for the Project and is subject to change with County review and approval as the Project design and program is further refined.

2. **Affordability of the Project Units**

DOH will monitor the Project to ensure that the Project units are in compliance with the affordability requirements set forth in Section 3, below, and that procedures used to calculate the maximum tenant-paid rent for the Project units are consistent with the affordability requirements below.

During the duration of the Loan, the units will remain in compliance with the affordability requirements.

Concurrently with executing the Agreement and recording the Deed of Trust, Borrowers will execute a Declaration of Affordability Covenant to be recorded in the official public records of San Mateo County, in the form attached as Exhibit F (“Affordability Covenant”). The Affordability Covenant will memorialize the affordability restrictions and other requirements that accompany this Agreement. The Affordability Covenant will remain in force for the duration of the Loan.

3. **Unit Affordability Criteria**

Project units will be rented according to the following criteria for the duration of the Loan:

- Units must be rented to farmworkers employed in full-time agricultural work in San Mateo County during the agricultural season, or such farmworkers and their families, in either case qualifying as very low-income (at or below 50 percent of Area Median Income for San Mateo County as published annually by the U.S. Department of Housing and Urban Development (HUD)) (“Farmworker Tenants”).
- Rent and utility allowances (based on the Multi-Family Utility Allowance Schedule found at <https://www.smcgov.org/housing/utility-allowance-schedules>) must be at or below thirty percent (30%) of the Farmworker Tenant’s gross income with rents not to exceed extremely low rent amounts (based on HUD’s Maximum Affordable Rent Payment Schedule (the “Schedule”) in accordance with 24 CFR § Part 5, which is posted at <http://housing.smcgov.org/income-and-rent-limits>, as periodically updated, and incorporated herein).
- After one year of occupancy by qualifying Farmworker Tenants, rents may be adjusted annually based on the Schedule for the duration of the Loan.

4. **Environmental Review**

All applicable California Environmental Quality Act (“CEQA”) requirements must be met for all projects that receive funding.

5. **Compliance with California’s Prevailing Wage Law**

The Project may be subject to California’s prevailing wage law (Lab. Code, § 1720, *et seq.*). Borrowers are urged to seek professional legal advice about the law’s requirements. As a material condition of this Agreement, if either Borrower retains a general contractor for the Project, the County shall require such Borrower to submit, on behalf of such general contractor, a certification of compliance with California’s prevailing wage law. The certification must verify that prevailing wages have been or will be paid if such payment is required by law, and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the contracting Borrower and the general contractor.

6. **Project Completion**

“Project Completion” is defined as completion of construction of the Project as evidenced by issuance of Certificate of Occupancy or some other document acceptable to County.

7. **Compliance Period**

The “Compliance Period” is defined as the time frame beginning immediately upon Project Completion and ending on the later of **20** years from the first day of the Compliance Period or the Note maturity set forth in the Note. Borrowers shall provide County with a housing completion report, including final Project funding sources and uses, and tenant profile described below on forms acceptable to County within the first 180 days of the Compliance Period. Upon Borrowers’ request to County, the due dates for this report may be extended to accommodate a longer lease-up period if Borrowers have demonstrated reasonable diligence and progress toward achieving 100 percent occupancy. Borrowers shall access and complete the aforementioned forms on the City Data Services On-Line Data Management System (“CDS”), or a different method as directed by County staff. County shall provide Borrowers with the required forms or links to the forms on the CDS at least 30 days prior to when reporting on such forms is required.

Thereafter, on an annual basis during the Compliance Period, or more often if required by County, Borrowers will provide County with all information necessary to monitor the Project relating to program compliance matters, including but not necessarily limited to: evidence that at least one Borrower is maintaining continuing fire and liability insurance as described in Section 17 of this Exhibit; tenant incomes and rents; and any other compliance information as may be specifically requested by County. In accordance with Section 15 (Retention of Records, Right to Monitor and Audit) of this Agreement, as applicable, Borrower shall keep and maintain income records of all tenants who rent an affordable unit for the entire term of the Affordability Covenant. Notwithstanding the aforementioned, Borrower shall maintain all required records for a period of five (5) years after the end of the Compliance Period.

8. **Property Standards**

Construction of the Project must fully comply with all applicable local and State building codes and regulations, and Borrowers must operate and maintain the Project in a manner that ensures the Project will continue to comply with said codes and regulations. Borrowers’ operations and maintenance of the Project must ensure that its appearance from all public rights-of-way continually presents the Project in a high-quality manner.

9. **Performance Reporting**

Prior to the first request for reimbursement, at each subsequent request, and in any case no less than every six (6) months, Borrowers shall provide County with a performance report, including a description of work completed since the last report, remaining tasks, and an updated Project timeline, including by reference to changes from the timeline submitted with the previous report. Such reporting is required to be entered into the CDS by Borrowers, or by using a different method as directed by County staff, and must be provided until Project Completion.

10. **On-Site Monitoring**

During the Compliance Period, County will undertake monitoring of Project premises for program compliance. County will conduct monitoring visits at least every three years, or more frequently during the Compliance Period. Monitoring visits will consist of on-site inspection of units and common areas. All units need to be accessible during the monitoring visit. Each Borrower agrees to cooperate with such monitoring and to make any records kept on site available for review and to make personnel available upon reasonable request to review and discuss on-site conditions (whether or not such personnel are located on-site). Borrower shall be given reasonable notice of on-site monitoring visits.

11. **Contract Number**

All correspondence, invoices, payments, and reports must include the County contract number.

12. **Security/Term/Loan Terms**

Unless otherwise noted herein, funding is provided in the form of a loan, in accordance with terms described in this paragraph. Prior to any disbursement of funds, Borrowers shall execute and deliver the Note in the amount indicated below and POST shall execute the Deed of Trust in favor of County to secure the performance of all terms and conditions of the Note and this Agreement.

Funding Source	Note Amount	Deed of Trust Amount
Measure K / Farm Labor Housing	\$900,000	\$900,000

The Note will be non-recourse. The Deed of Trust will be recorded in the Office of the Recorder of the County of San Mateo.

No interest will accrue on the Note. The Note and Deed of Trust will be executed prior to any disbursement of funds under this Agreement. Should there be a conflict in the language between the Note and this Agreement, the Note will prevail.

The County agrees to forgive the Loan in 20 percent increments over the final five years of the 20-year term prior to the maturity date of the Note, with the first amount being forgiven on the sixteenth anniversary date of Project Completion then continuing annually until Note maturity set forth in the Note, unless the Note matures earlier due to the Unauthorized Sale of the Property as defined below or default as defined in Section 15.

Borrowers may not during the term of the Agreement sell or transfer the Property or any interest therein without prior County consent ("Unauthorized Sale"). At the time of any Unauthorized Sale any remaining balance not yet forgiven will be paid to County. Should the balance of any unforgiven amount be paid before the 20-year term, this Agreement

shall be null and void. Notwithstanding the foregoing, POST is authorized to transfer its interest in the Property to MidPen as its co-tenant in common or Fifth Crow as its co-Borrower (each an "Authorized Transferee" and each transfer an "Authorized Transfer") provided that the Authorized Transferee shall take such interest subject to the Deed of Trust, and further provided that POST must notify the County in writing no less than thirty (30) days in advance of such Authorized Transfer and provide such documents as County may reasonably request in relation thereto. Borrowers agree to cooperate with County as reasonably necessary to ensure that the County's security for the Loan and lien position of the Deed of Trust is undiminished by any Authorized Transfer.

13. **Excess Construction Proceeds/Cost Savings**

"Surplus Construction Cash" is defined as the amount, if any, that the total of all sources of funds received for the Project exceed the total cost of the Project. If Surplus Construction Cash remains after construction is completed and Borrower Form 8609 is filed, and all Project costs, including payment obligations to construction contractors, subcontractors, and any lenders for construction costs are satisfied, Borrower shall reimburse County for its financial investment in the Project in the amount of remaining Surplus Construction Cash. If there is Surplus Construction Cash, Borrower shall prepare and submit to County a report detailing and certifying the accuracy of the amount of Surplus Construction Cash.

Any reimbursement to County will be counted toward repayment of the amount owed on the Note but will not be considered a prepayment.

Borrowers may opt to retain up to 50 percent of the Surplus Construction Cash proceeds with the other 50 percent to be distributed to County. Should Borrowers opt to retain a portion of the Surplus Construction Cash, their portion shall be used solely for ongoing operation and maintenance of the Project. If Borrowers intend to retain up to 50 percent of the Surplus Construction Cash, they shall inform County of their intent in writing within 60 days prior to said retention and provide a detailed description of the intended use[s] of the Surplus Construction Cash, in writing.

14. **Due on Unauthorized Sale**

In the event of an Unauthorized Sale of the Property, the entire principal balance of the Note shall be immediately due and payable.

15. **Default**

Subject to the notice and cure requirements set forth in Section 6 of this Agreement and in addition to such grounds for default as may be set forth in this Agreement, default may result from:

- A) Failure of Borrower to make any payment hereunder as when and due;
- B) Failure of Borrower to perform or observe any terms or provisions of this Agreement, including but not limited to meeting affordability requirements;

- C) Use of funds under this Agreement for purposes not approved by County; or occurrence of any other event (whether termed default, event of default, or otherwise) which constitutes or results in either Borrower's material violation of this Agreement.

16. **Title**

Borrowers represent and warrant that to their present, actual knowledge, the Property is clear of any title defects or fee interests which would prevent the operation of the proposed Project or that would impair the enforcement of the Deed of Trust.

17. **Fire and Extended Coverage**

Borrowers at their costs shall maintain for the Project at least one policy of standard fire and extended coverage during the life of the Note and Deed of Trust, or any subsequently executed document which replaces the Note or Deed of Trust, with vandalism and malicious mischief endorsements, in the amount of at least the full replacement value of the improvements which are part of the Project. The insurance policy must be issued in the name of the Borrower holding the policy and County as their interests appear. The insurance policy must contain a lender's loss payment endorsement, providing that any proceeds will be payable to County as its interests appear and may be subject to the interest of senior lenders. Notwithstanding the foregoing, if requested in writing by Borrowers upon a showing that obtaining the fire and extended coverage required under this paragraph is impracticable, the County shall have the right but not the obligation to consider waiving the requirements of this paragraph and/or permitting Borrowers to provide a reasonably equivalent substitute for such coverages, as determined in the County's sole discretion.

Unless the County and Borrowers otherwise agree in writing, insurance proceeds shall be applied to the restoration or repair of the Property (including damaged improvements), provided that:

- a. Subject to the requirements of senior lenders, in the event that Borrowers shall undertake to restore the Property including damaged improvements or to reconstruct the damaged improvements within a period of sixty (60) days of receipt of insurance proceeds, such insurance proceeds received by County will be released to Borrowers as payments are required for said purposes, and upon completion of such restoration or reconstruction, any balance thereof remaining will be paid to Borrowers forthwith, subject to the rights of senior lenders.
- b. In the event that Borrowers fail to begin the restoration or reconstruction of the Property including such improvements within sixty (60) days after receipt of insurance proceeds following any such damage or destruction, there will be paid and released to County from such insurance proceeds a sum equal to the cost of clearing the premises ("Clearing Cost") in the event Borrowers do not at their own expense clear the premises within said period. Subject to the rights of any senior lender, the

balance remaining after payment to the County of the Clearing Cost will be distributed such that the County receives payment for any outstanding amount due on the Loan, and Borrowers receive any remainder.

- c. If Borrowers are in default of this Agreement at the time of the loss or at the time insurance proceeds are released and/or the Parties agree in writing that restoration or repair of the Property is not economically feasible, the insurance proceeds shall be applied to repay the Loan, with the excess, if any, paid to Borrowers.

18. **Mandatory Acknowledgement of County as Funder**

All activities receiving any type of funding assistance and/or substantial technical assistance through County for capital improvements must indicate such in any advertising, marketing, public presentations, press releases, written materials, or project descriptions.

Projects must display signage as described below:

- A) Temporary construction signage identifying Measure K funding from San Mateo County must be appropriately displayed during the major portion of the construction phase. Such signage must be provided by Borrowers and must be pre-approved by County in design and content.

Exhibit C – Disbursement and Rates

Funding provided in this Agreement is to be used to support work scope activity and delivery costs enumerated in Exhibit B. None of the funding shall be used to support Borrowers' general administration costs. Subject to the terms of the Agreement, County shall disburse loan funds to Borrowers based on the following fee schedule and terms:

Funding assistance by County will be provided upon submission of reimbursement requests by Borrowers to County. Requests for reimbursement shall include true and correct copies of invoices paid, together with warrants, canceled checks, or other proof that the invoices have been paid. The request must include a brief narrative description of the progress of the Project and the items being reimbursed.

Borrowers' requests for reimbursement shall certify in writing that the specific services for which funding assistance is being requested have been satisfactorily completed, that the amounts requested are accurate, reasonable, and necessary and that all such amounts are being or have been expended on behalf of and exclusively for the Project. The County reserves the right to verify the accuracy and completeness of such certification prior to disbursement to Borrower. Borrower agrees to cooperate with County to provide supporting documentation for costs incurred and disbursement requests.

The County will reimburse 80 percent of each approved invoice in order to account for the Borrowers' required 20 percent contribution towards the Project.

Exhibit D
INTENTIONALLY OMITTED

Exhibit E
Project Sources and Uses Budget

Consultants		\$50,000
	Engineering	
	Septic Design	
	Water Treatment system design and well testing	
	Water quality testing	
	Geotechnical	
	Biologist	
	Planner	
	Surveyor	
	Architect for SMC/CA	
	Structural	
Housing units		\$990,000
	Slab foundation	
	Carpentry	
	Painting	
	Modular Housing Units	
	Interior Carpentry	
	Mechanical, Electrical, Plumbing	
	Appliances	
	HVAC	
	Water Heater	
	Furnishings	
Site Work		\$45,000
	Earthwork	
	Fencing	
	Landscaping	
Site Utilities		\$115,000
	Excavation and backfill	
	Water Treatment and storage	
	Wastewater Treatment System	
	Fire protection systems	
20% Contingency		\$240,000
TOTAL		\$1,440,000

Exhibit F
Affordability Covenant

See attached exhibit.

Exhibit G
Promissory Note

See attached exhibit.

Exhibit H
Deed of Trust and Assignment of Rents

See attached exhibit.