

NO FEE DOCUMENT

**Recording requested by and
When recorded, mail to:**

County of Santa Barbara
105 East Anapamu Street, Room 105
Santa Barbara, CA 93101
Attn: Grants Administration Division Chief

NO FEE DOCUMENT PURSUANT TO
GOVERNMENT CODE SECTION 27383

**HOME REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

This HOME Regulatory Agreement and Declaration of Restrictive Covenants (this “Agreement”) is made as of this ___ day of November, 2011 by and between the County of Santa Barbara, a political subdivision of the State of California (the “Lender”), and McClelland Santa Maria, L.P., a California limited partnership, (the “Owner”).

RECITALS

A. The Owner owns a parcel of real property located at 190 E. Inger Street in the City of Santa Maria County of Santa Barbara, California, as more particularly described in Exhibit A (the “Property”) upon which the Owner is constructing forty-seven (47) units of multi-family rental housing (the “Development”).

B. The Lender has received HOME Investment Partnerships Program funds (“HOME Funds”) from the United States Department of Housing and Urban Development (“HUD”) pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low-income persons and families.

C. Owner has received a loan from Lender of HOME Funds in the amount of Five Hundred Seventy Two Thousand One Hundred Seventy Six Dollars (\$572,176) to provide financing for the Development (the “HOME Loan”). Owner has also received from Lender a loan of In-Lieu Funds in the amount of Four Hundred Fifty Thousand Dollars (\$450,000) to provide financing for the development (the “In-Lieu Fund Loan”).

D. As further consideration for this funding and to further the interests of the Lender, the Owner has agreed to enter into and record this Agreement. The purpose of this Agreement is to regulate and restrict the occupancy, rents, operation, the ownership, and management of the Development. The covenants in this Agreement are intended to run with the land and be binding on the Owner and its successors and assigns in the Property.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the aforementioned funding, the Owner and the Lender hereby agree as follows:

1. DEFINITIONS

The following terms have the meanings and content set forth in this section wherever used in this Agreement or attached exhibits.

1.1 **“ANNUAL INCOME”** means the Section 8 Program definition of Annual (gross) Income as more particularly defined at 24 CFR 5.609.

1.2 **“HOME ASSISTED UNIT”** means any of the eleven (11) Units in the Development with restricted occupancy and rents pursuant to this Agreement which has been designated as an HOME Assisted Unit. A Unit shall not be considered an HOME Assisted Unit until the Unit has been constructed and made available for occupancy.

1.3 **“AREA MEDIAN INCOME”** means the median income for the Santa Barbara/Santa Maria/Goleta Primary Metropolitan Statistical Area, with adjustments for household size, as determined from time to time by the United States Department of Housing and Urban Development (“HUD”) pursuant to the United States Housing Act of 1937, as amended, or such other method of median income calculation applicable to the Lender that HUD may hereafter adopt in connection with said Act.

1.4 **“DEED OF TRUST”** means that certain deed of trust, placed on the Property as security for the HOME Loan with the Owner as trustor and the Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said deed of trust.

1.5 **“DEVELOPMENT”** means the forty-seven (47) units of housing with appurtenant parking and site improvements on the Property to be constructed by the Owner on the Property according to the terms of the Loan Agreement.

1.6 **“LENDER”** is the County of Santa Barbara, a political subdivision of the State of California, and its officers, officials, directors, employees, agents and authorized representatives.

1.7 **“HOME LOAN”** means the Loan of HOME made by the Lender to the Owner for the Development pursuant to the Loan Agreement and the HOME Note.

1.8 **“LOAN AGREEMENT”** is the Loan Agreement executed by and between the Owner and the Lender, setting forth the terms and conditions governing both the HOME Loan and a separate loan of local In-Lieu Funds.

1.9 **“LOAN DOCUMENTS”** are collectively the Loan Agreement, the HOME Note evidencing the HOME Loan, the Deed of Trust securing the HOME Note, and this Agreement as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.10 “**HOME NOTE**” means the promissory note executed by the Owner in favor of the Lender evidencing the HOME Loan, which is secured by the Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note.

1.11 “**OWNER**” means McClelland Santa Maria, L.P., a California Limited Partnership.

1.12 “**PROPERTY**” means the real property described in Exhibit A attached hereto and incorporated herein, including the improvements constructed thereon pursuant to the Loan Agreement.

1.13 “**QUALIFYING HOUSEHOLD**” means a household that qualifies as a Very Low-Income Household.

1.14 “**QUALIFYING RENT**” means the total charges for monthly rent, utilities, and related services which do not exceed one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of Area Median Income derived from data provided for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area as determined by HUD annually with adjustments for household size.

1.15 “**TENANT**” means a household occupying a Unit.

1.16 “**TERM**” means the fifty-five (55) year term of this Agreement during which the HOME Assisted Units must meet the affordability requirements imposed under the HOME Program, commencing when the project is closed in the Federal Integrated Disbursement Information System.

1.17 “**UNIT**” means a housing unit in the Development.

1.18 “**VERY LOW-INCOME HOUSEHOLD**” means a household whose annual income does not exceed fifty percent (50%) of the Area Median Income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area as determined by HUD with adjustments for household size.

2. TERM AND COMPLIANCE

2.1 **COMPLIANCE WITH LOAN DOCUMENTS.** The Owner’s actions with respect to the Property and the use of funds from the HOME Loan shall at all times be in full conformity with all of the requirements of the Loan Documents, including but not limited to the insurance requirements contained therein.

2.2 **TERM OF AGREEMENT.** This Agreement shall commence upon execution and shall remain in full force and effect until fifty-five (55) years following the date the project is closed out in the federal Integrated Disbursement and Information System. Lender shall notify Owner in writing at the start of the Term. The requirements of this Agreement shall apply throughout the Term without regard to the term of any loan or mortgage or any transfer of ownership of the Property.

2.3 COMPLIANCE WITH PROGRAM REQUIREMENTS. The Owner shall comply with all requirements imposed on projects assisted under the HOME program in effect on the date the HOME Loan is funded.

3. DEVELOPMENT OCCUPANCY AND RENTS

3.1 OCCUPANCY OF DEVELOPMENT. A total of eleven (11) Units in the Development shall be designated as HOME Assisted Units. The HOME Assisted Units must be occupied, or reserved for occupancy by, Qualifying Households.

3.2 HOME ASSISTED UNITS. The Owner shall limit for the full term of this Agreement the rental of eleven (11) HOME Assisted Units to Very Low-Income Households at rents that do not exceed the maximum rental charges for each HOME Assisted Unit as set forth in this Agreement.

The eleven HOME Assisted Units shall meet the following standards:

- A. The eleven HOME Assisted Units shall be designated as “floating” units, so that the units that are designated as HOME Assisted under this Agreement may change over time as long as the total number of HOME Assisted units in the Project remains constant;
- B. Generally reflect the average number of bedrooms per dwelling unit in the Project;
- C. Be similarly constructed and of comparable quality to all other units in the Project;
- D. Be dispersed throughout the Project;
- E. Provide tenants access and enjoyment of all common areas and facilities of the Project on the same basis as tenants of other Units; and
- F. A Unit in the Project cannot be a HOME Assisted Unit at the same time that it is an In Lieu Assisted Units.

3.3 MAXIMUM RENTAL CHARGES.

A. For a household occupying an HOME Assisted Unit, the total charges for monthly rent, utilities, and related services shall not exceed one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of Area Median Income as determined by HUD annually with adjustments for household size and allowances for utilities and services. Allowances for utilities and services shall be updated periodically in accordance with the Utility Allowance Schedule published annually by the Housing Authority of the County of Santa Barbara for the Lompoc Housing Market Area.

B. Maximum rents for each HOME Assisted Unit shall be set by the Lender at the time of initial occupancy of the Development. Annual rent increases shall be calculated based on the change in Area Median Income published annually by HUD. At least sixty (60) calendar days prior to increasing rents on any HOME Assisted Unit on the Project, Borrower shall submit to the Lender for review and approval a written request for such increase. Qualifying Households shall be given at least sixty (60) days written notice prior to any rent increase. If the proposed new rental rate does not exceed the Qualifying Rent for such year, Lender shall approve such request.

3.4 **INCOME CERTIFICATION.** The income levels and other qualifications of applicants for HOME Assisted Units shall be certified by Owner within sixty (60) business days of the household's expected occupancy of an HOME Assisted Unit and recertified annually thereafter by the Owner. If the household size of a household occupying an HOME Assisted Unit changes, the Owner may request additional information and documentation to determine eligibility.

A. Initial Income Verification. Before the household occupies an HOME Assisted Unit, the Owner shall verify that the income provided by an applicant or occupying household in an income certification is accurate by taking one or both of the following steps as a part of the verification process:

- (1) Third Party Verification: A third party (e.g., employer, Social Security Administration, or public assistance agency, etc.) is contacted to provide information to verify income. Written requests and responses are generally preferred; however, conversations with a third party are acceptable if thoroughly documented in writing.
- (2) Review of Documents: The household provides documents verifying their income (e.g., pay stubs, tax returns, etc.). These documents must then be retained in the project files.

B. Annual Income Recertification. At the time of lease renewal or pursuant to an annual schedule adopted by the Owner, and no later than the anniversary of the original income evaluation and annually thereafter, Owner shall recertify the household income of each household occupying an HOME Assisted Unit using the method as described in Section 3.4 A above,.

3.5 **INCREASES IN TENANT INCOMES.** In the event that recertification of a household occupying an HOME Assisted Unit, or changes to the composition of a household occupying an HOME Assisted Unit indicates that the household's income exceeds the maximum designated income for a Very Low-Income Household, the Owner may increase rents on such Unit as permitted by HUD to no more than 30% of 1/12 of the household's income, and the household may be permitted to continue to occupy the Unit. In such event, Owner shall rent the next available comparable Unit to a Qualified Household at no more than the rent set forth in Section 3. Upon such rental, the Unit occupied by the non-qualified household shall no longer be classified as an HOME Assisted Unit and the newly rented unit to a Qualified Household shall be deemed an HOME Assisted Unit.

4. LEASING THE DEVELOPMENT.

4.1 **TENANT LEASES.** The Owner shall execute a written lease with tenants of HOME Assisted units for a term of at least one year, unless the Owner and the tenant mutually agree to a shorter period. A lease may not be for a period less than thirty (30) days. The tenant lease and any changes thereto must be approved by Lender.

A. The Owner shall include in leases for all HOME Assisted Units provisions which provide that the household is subject to annual certification of income and that the tenancy of the household shall be immediately terminated should one or more of the household's members misrepresent any material fact regarding the household's qualification as a Very Low-Income

Household. The Owner shall include in all leases for HOME Assisted Units provisions which prohibit the household from subleasing the HOME Assisted Unit.

B. In addition to executing a lease for an HOME Assisted Unit, the Owner shall require that each household leasing an HOME Assisted Unit execute a declaration of intent to occupy which shall require the household to occupy the HOME Assisted Unit as the household's primary residence.

C. The lease for each HOME Assisted Unit shall not contain any the prohibited provisions identified at 24 CFR §92.253(b) including the following:

1. *Agreement to be sued.* Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
2. *Treatment of property.* Agreement by the tenant that the owner may take, hold or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;
3. *Excusing owner from responsibility.* Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
4. *Waiver of notice.* Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
5. *Waiver of legal proceedings.* Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
6. *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury;
7. *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
8. *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

D. Owner shall not terminate the tenancy or refuse to renew the lease of a tenant of an HOME Assisted Unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; or for other good cause. To terminate or refuse to renew the tenancy, the Owner shall serve written notice upon the tenant specifying the grounds for the action at lease thirty (30) days prior to termination of tenancy.

4.2 TENANT SELECTION. Before leasing the Development, the Owner must provide Lender for its review and approval the Owner's written tenant selection plan.

4.3 **SECTION 8 CERTIFICATE HOLDERS.** The Owner will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of units by such prospective tenants.

4.4 **CONDOMINIUM CONVERSION.** The Owner shall not convert Units to condominium or cooperative ownership or sell condominium or cooperative conversion rights in the Property during the term of this Agreement.

4.5 **NONDISCRIMINATION.** The Owner shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of Units on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any other arbitrary basis. The Owner shall include a statement in all advertisements, notices and signs for the availability of Units for rent to the effect that the Owner is an Equal Housing Opportunity Provider.

4.6 **MARKETING PLAN.** Prior to occupancy, Owner shall submit to the Lender for approval its plan for marketing the Units, including information on affirmative marketing efforts and compliance with fair housing laws and the Lender's affirmative fair marketing guidelines. Upon receipt of the marketing plan, the Lender shall promptly review the Marketing Plan and shall approve or disapprove it within thirty (30) days after submission. If the Marketing Plan is not approved, Lender shall specify its reasons for disapproval. The Owner shall submit a revised Marketing Plan within thirty (30) days of Lender's notice of disapproval. If the Lender does not approve the revised Marketing Plan, the Owner shall be in default under the terms of the Loan Agreement.

5. PROPERTY MANAGEMENT

5.1 **MANAGEMENT RESPONSIBILITIES.** The Owner is responsible for all management functions with respect to the Development, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Lender shall have no responsibility over management of the Development. The Owner shall submit to the Lender for its approval its proposed property manager. The Owner may only remove and/or replace the property manager with the prior written consent of the Lender which consent shall not be unreasonably withheld.

5.2 **APPROVAL OF MANAGEMENT POLICIES.** The Owner shall submit its written management policies with respect to the Development to the Lender for its review, and shall amend such policies in any way necessary to insure that such policies comply with the provisions of this Agreement, the requirements of the existing housing program under Section 8

of the United States Housing Act, or its successors, and the requirements of all lenders providing financing for the Development.

5.3 INSPECTION AND RECORDS. The Owner shall maintain records which clearly document the Owner's performance of its obligations to operate the Property under the terms of this Agreement. The Owner shall submit any records to the Lender within ten (10) business days of the Lender's request. The Owner shall permit the Lender to enter and inspect the Development for compliance with obligations under this Agreement upon twenty-four (24) hours advance notice of such visit by the Lender to the Owner or the Owner's management agent and to tenants of any Units.

5.4 COMPLIANCE MONITORING. The Owner shall operate the Property in full compliance with this Agreement and the HOME Program Regulations at 24 CFR Part 92 in effect on the date the HOME Loan is funded, and shall remain in compliance therewith throughout the term of this Agreement. The Owner shall permit the Lender to conduct annual compliance monitoring, including performing on-site records review and property inspections, as required by regulation or reasonably requested by County.

5.5 ANNUAL REPORT. The Owner shall submit to the Lender a report in a form approved by Lender for the preceding period of January 1st through December 31st, containing the information requested by Lender so as to allow the Lender to determine the Owner's compliance with this Agreement. The report shall be submitted annually no later than March 1st, and shall include, at a minimum, (i) a statement of the fiscal condition, including audited financial statements for the preceding year, (ii) occupancy of the project, (iii) a statement of the physical condition, (iv) general management performance, (v) for each Unit, the Rent, income, and household size of the household occupying the Unit. The report shall also state the date the tenancy commenced for each rental Unit and such other information as the Agency may be request.

Within thirty (30) days after receipt of a written request, Owner shall submit any other information or completed forms requested by the Lender in order to comply with reporting requirements of the United States Department of Housing and Urban Development, or the State of California, or the Lender. The Lender shall have the right to examine and make copies of all books, records or other documents of Owner which pertain to the Project or any Unit to determine compliance with this Agreement.

5.6 FEES, TAXES, AND OTHER LEVIES. The Owner shall be responsible for payment of all fees, assessments, taxes, charges and levies imposed by any public authority or utility company with respect to the Property, and shall pay such charges prior to delinquency.

5.7 PROPERTY TAX EXEMPTION. The Owner shall not apply for a property tax exemption for the Property under any provision of law other than Revenue and Taxation Code Section 214(g) without the Lender's prior written consent.

6. GENERAL PROVISIONS

6.1 **SUBORDINATION.** This Agreement shall be subordinated in priority only as provided in the Loan Agreement or to liens and encumbrances otherwise approved in writing by the Lender in its sole and absolute discretion.

6.2 **DEFAULT AND REMEDIES** In the event of any breach of any agreement or obligation under this Agreement by the Owner, the Lender shall provide written notice to the Owner of such breach. The Owner shall have an opportunity to cure such breach within thirty (30) days from the Owner's receipt of such written notice or such longer period of time as the Lender determines is necessary to cure the breach if the Owner diligently undertakes to cure such breach. If the Owner fails to perform a timely cure of the specified breach, the Lender may proceed with any or all of the following remedies upon the Owner's failure to cure:

A. Bring an action in equitable relief seeking the specific performance by the Owner of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of said terms and conditions, and/or seeking declaratory relief;

B. Enter upon, take possession of, and manage the Property and the Development, either in person, by agent, or by a receiver appointed by a court, and collect any rents, income, deposits, or reserves and apply them to operate the Property;

C. After notice provided for herein, make such repairs or replacements to the Property and Development as are necessary and provide for payment thereof; or

D. Pursue any other remedy provided under the Loan Agreement or allowed at law or in equity.

6.3 **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No officers, directors, employees and agents of the Lender shall be personally liable to the Owner for any obligation created under the terms of this Agreement.

6.4 **INSURANCE AND INDEMNITY.** Borrower shall comply with the insurance and indemnification provisions set forth in Exhibit B and incorporated herein by this reference.

6.5 **GOVERNING LAW.** This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

6.6 **AGREEMENT CONTROLS.** In the event that any provisions of this Agreement and any Loan Document conflict, the terms of this Agreement shall control.

6.7 **TIME.** Time is of the essence in this Agreement.

6.8 **CONSENTS AND APPROVALS.** Any consent or approval of the Lender required under this Agreement shall not be unreasonably withheld. Any approval must be in writing and executed by an authorized representative of the Lender.

6.9 NOTICES, DEMANDS AND COMMUNICATIONS. Formal notices, demands and communications between the Owner and the Lender shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of the Owner and the Lender as follows:

Lender: County of Santa Barbara
Housing and Community Development
105 E. Anapamu Street, Rm. 105
Santa Barbara, CA 93101
Attn: Grants Administration Division Chief

With copy to Office of the County Counsel
County of Santa Barbara
105 E Anapamu Street, Room 201
Santa Barbara, CA 93101

Owner: McClelland Santa Maria, L.P.
c/o Surf Development Company
815 West Ocean Avenue
Attn: Executive Director

6.10 BINDING UPON SUCCESSORS. This Agreement shall be recorded and all provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferee, and assigns of the Owner, and the Lender, and shall run with the land for the full term of this Agreement, regardless of any assignment, payment, prepayment, expiration, extinguishment of the HOME Loan or HOME Note, any reconveyance of the Deed of Trust, or any conveyance or transfer of the Property or portion thereof.

6.11 RELATIONSHIP OF PARTIES. The relationship of the Owner and the Lender during the term of this Agreement is solely that of lender and borrower shall not be construed as a joint venture, equity venture, or partnership.

6.12 WAIVER. Any waiver by the Lender of any obligation in this Agreement must be in writing. No waiver will be implied from any delay or failure by the Lender to take action on any breach or default of the Owner or to pursue any remedy allowed under this Agreement, the Loan Documents, or applicable law. Any extension of time granted to the Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the Lender to any act or omission by the Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the Lender's written consent to future waivers.

6.13 AMENDMENTS AND MODIFICATIONS. Any amendments or modifications to this Agreement must be in writing, and shall be made only if executed by both the Owner and the Lender.

6.14 **SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

IN WITNESS WHEREOF, Lender and Owner have caused this Agreement to be executed by their respective duly authorized officer.

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By: _____
Mary L. McMaster
Deputy County Counsel

LENDER:

County of Santa Barbara
a political subdivision of the State of California

By: _____
Joni Gray
Chair of the Board of Supervisors
(Signature must be notarized)

APPROVED AS TO FORM

RISK MANAGEMENT

By: _____
Ray Aromatorio
Risk Manager

OWNER:

McClelland Santa Maria, L.P., a
California limited partnership

By: Surf Development Company, a California
non-profit public benefit corporation,
Managing General Partner

APPROVED AS TO

ACCOUNTING FORM:

ROBERT W. GEIS
AUDITOR-CONTROLLER

By: _____
Juan Izquierdo
Division Chief

By: _____
Name: Joyce Howerton
Title: Vice-President
(Signature must be notarized)

AND

By: Roope, LLC
Administrative General Partner

By: _____
Name: Caleb Roope
Title: Manager
(Signature must be notarized)

State of California
County of Santa Barbara

On _____ before me, _____, Notary Public,
personally appeared _____ and _____
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(s) 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.

Signature _____ (Seal)

EXHIBIT A

Legal Description of the Property

EXHIBIT B

INSURANCE REQUIREMENTS

EXHIBIT B

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS

INDEMNIFICATION

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

INSURANCE

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. Workers' Compensation Insurance: Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR'S staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.
2. General and Automobile Liability Insurance: The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the CONTRACTOR in the indemnity and hold harmless provisions [above] of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTORS shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The automobile liability policy

shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

"Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

3. Property Insurance: Throughout the term of this Agreement, CONTRACTOR, at its own cost and expense, shall insure against loss of or damage to all improvements on the PROPERTY, equipment and fixtures thereon resulting from fire, lightning, vandalism, malicious mischief, those risks ordinarily defined as "all risk coverage" and in addition thereto for loss or damage resulting from flood surface water, waves, tidal water or tidal waves, overflow of streams or other bodies of water or spray from any of the foregoing, all whether driven by wind or not and including, but not limited to, water which backs up through sewers or drains or water below the ground which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors or through doors, windows or any other openings in such sidewalks, driveways, foundations, walls or floors. CONTRACTOR'S obligation to obtain flood, wave, tidal wave and earthquake casualty coverage shall be conditioned upon such coverage being readily available at commercially reasonable rates for commercially reasonable amounts of coverage. Such insurance shall be in amount equal to 100% of the full replacement cost improvements on the PROPERTY, other related equipment and fixtures and shall be placed and maintained with one insurance company or companies which is or are acceptable to COUNTY. Such insurance shall be modified periodically to ensure that, at all times, the limits of said policies are large enough to provide coverage for one hundred percent (100%) of the replacement costs of all equipment and improvements on the PROPERTY. COUNTY may require that CONTRACTOR submit to it at the commencement of each third calendar year during the term hereof, an appraisal of the replacement value of the improvements on the Site so that COUNTY can determine whether the insurance coverage is sufficient. Certificates of insurance evidencing such insurance coverage as modified shall be promptly filed with COUNTY. All such insurance policies, along with their endorsements, shall name COUNTY as a loss payee.
4. Builder's Risk Insurance: During the course of construction, the CONTRACTOR shall secure insurance that will include protection against direct physical loss or damage, including fire and theft, in an amount sufficient to cover replacement value of all improvements.

CONTRACTOR shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR'S services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY'S rights to insurance coverage hereunder.

In the event the CONTRACTOR is not able to comply with the COUNTY'S insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR'S expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY'S Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY'S risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.

EXHIBIT B

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS

INDEMNIFICATION

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

INSURANCE

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. Workers' Compensation Insurance: Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR'S staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.
2. General and Automobile Liability Insurance: The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the CONTRACTOR in the indemnity and hold harmless provisions [above] of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTORS shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The automobile liability policy

shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

"Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

3. Property Insurance: Throughout the term of this Agreement, CONTRACTOR, at its own cost and expense, shall insure against loss of or damage to all improvements on the PROPERTY, equipment and fixtures thereon resulting from fire, lightning, vandalism, malicious mischief, those risks ordinarily defined as "all risk coverage" and in addition thereto for loss or damage resulting from flood surface water, waves, tidal water or tidal waves, overflow of streams or other bodies of water or spray from any of the foregoing, all whether driven by wind or not and including, but not limited to, water which backs up through sewers or drains or water below the ground which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors or through doors, windows or any other openings in such sidewalks, driveways, foundations, walls or floors. CONTRACTOR'S obligation to obtain flood, wave, tidal wave and earthquake casualty coverage shall be conditioned upon such coverage being readily available at commercially reasonable rates for commercially reasonable amounts of coverage. Such insurance shall be in amount equal to 100% of the full replacement cost improvements on the PROPERTY, other related equipment and fixtures and shall be placed and maintained with one insurance company or companies which is or are acceptable to COUNTY. Such insurance shall be modified periodically to ensure that, at all times, the limits of said policies are large enough to provide coverage for one hundred percent (100%) of the replacement costs of all equipment and improvements on the PROPERTY. COUNTY may require that CONTRACTOR submit to it at the commencement of each third calendar year during the term hereof, an appraisal of the replacement value of the improvements on the Site so that COUNTY can determine whether the insurance coverage is sufficient. Certificates of insurance evidencing such insurance coverage as modified shall be promptly filed with COUNTY. All such insurance policies, along with their endorsements, shall name COUNTY as a loss payee.
4. Builder's Risk Insurance: During the course of construction, the CONTRACTOR shall secure insurance that will include protection against direct physical loss or damage, including fire and theft, in an amount sufficient to cover replacement value of all improvements.

CONTRACTOR shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR'S services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY'S rights to insurance coverage hereunder.

In the event the CONTRACTOR is not able to comply with the COUNTY'S insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR'S expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY'S Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY'S risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.

EXHIBIT F

IN-LIEU FUND PROMISSORY NOTE

EXHIBIT F
IN LIEU PROMISSORY NOTE
(In Lieu Fund Loan)

Santa Barbara, California

\$450,000

_____, 2011

FOR VALUE RECEIVED, McClelland Santa Maria, L.P., a California limited partnership (“Borrower”), whose address is 815 West Ocean Avenue, Lompoc, California, 93436, hereby promises to pay to the order of the County of Santa Barbara, a political subdivision of the State of California (“Lender”), whose address is 105 E. Anapamu Street, Room 105, Santa Barbara, California 93101, the principal amount equal to Four Hundred Fifty Thousand Dollars (\$450,000), or so much thereof as may be advanced by Lender to Borrower, together with interest thereon, as set forth below.

1. **PURPOSE.** In order to assist Borrower in developing forty-seven (47) units of affordable housing, Lender loaned the amount of One Million Twenty Two Thousand One Hundred Seventy Six Dollars (\$1,022,176) to Borrower. Of that amount, Four Hundred Fifty Thousand Dollars (\$450,000) is derived from funds set aside by Lender for the development of affordable housing in the County of Santa Barbara (the “In Lieu Funds”); the remainder is derived from funds received by the County from the Federal Department of Housing and Urban Development HOME Investment Partnerships Program (the “HOME Funds”).

2. **BORROWER’S OBLIGATION.** This promissory note (the “In Lieu Note”) evidences Borrower’s obligation to pay Lender the principal amount of Four Hundred Fifty Thousand (\$450,000), (the “In Lieu Loan”) for the In Lieu Funds loaned to Borrower by Lender for the specific uses designated in a loan agreement of even date herewith, between Borrower and Lender (the “Loan Agreement”).

3. **INTEREST.** Subject to Section 4, this In Lieu Note shall bear simple interest at the rate of four and one half percent (4.5%) per annum.

4. **DEFAULT INTEREST.** In the event of a default by Borrower of any of its obligations under this In Lieu Note, Borrower shall pay to Lender interest on the outstanding principal of this In Lieu Note, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, from the date of the default until the date that the default is cured or the In Lieu Loan is repaid in full.

5. **AMOUNT AND TIME OF PAYMENT.** The principal and all current and accrued interest of the In Lieu Loan shall be due and payable on the earlier of (a) fifty five (55) years from the date of the In Lieu Note, (b) the date the Property is sold or otherwise transferred except for a transfer to the general partner of Borrower or an affiliate thereof that has been approved by Lender in writing, (c) Borrower has failed to commence construction as set forth in Section 4.2 of the Loan Agreement, or (d) an Event of Default by Borrower which has not been cured as provided for in the Loan Agreement. In any event, the principal and all current and accrued interest of the In Lieu Loan shall be due and payable no later than December 15, 2066.

6. **DEFINITIONS.** All initially capitalized terms in this In Lieu Note shall have the definition ascribed to such terms in the Loan Agreement.

7. **PAYMENTS.** Payments shall commence on the first April 1st following recordation of a Notice of Completion for the Project. Borrower shall make annual payments on the In Lieu Loan and the HOME Loan together from Residual Receipts. On or before each Payment Date the Borrower shall submit the Annual Financial Statement to Lender for the preceding calendar year together with an amount equal to the Residual Receipts for the preceding calendar year up to the amount of the In Lieu Loan payment due. Lender shall review and approve such statement, or request revisions, within sixty (60) days after receipt. In the event Lender fails to approve or disapprove the Annual Financial Statement within the sixty (60) day period, Borrower may request a written determination of approval or disapproval following the expiration of such period. In the event Lender fails to provide a written determination to Borrower within ten (10) days following the receipt of Borrower's request for determination, the Annual Financial Statement shall be deemed approved. In the event that Lender determines that there is an understatement in the amount and payment of Residual Receipts due to Lender, Borrower shall promptly pay to Lender such understatement, but in any event, within twenty (20) days of notice of such understatement. In the event that Lender determines that there is an overpayment in the amount and payment of Residual Receipts due to Lender, Lender shall promptly pay to Borrower the amount of overpayment, but in any event, within twenty (20) days of such determination. If contested, Borrower has the right to pay under protest. All payments made by Borrower shall be applied as follows: first to pay current annual interest due, if any, first on the HOME Loan and then on the In Lieu Loan; then to the cumulative interest owed, if any, first on the HOME Loan and then on the In Lieu Loan; then to reduce the principal amount of the HOME Loan, and then to reduce the principal amount of the In Lieu Loan. Upon receipt of any payment applied to this In Lieu Note, the money shall be deposited into the County's HOME account. In any event all principal owed and all current and accrued interest of the In Lieu Loan shall be due and payable as provided in Section 5 above.

8. **PLACE AND MANNER OF PAYMENT.** All amounts due and payable under this In Lieu Note are payable at the office of Lender at the address set forth above, or at such other place as Lender may designate to Borrower in writing from time to time, in any coin or currency of the United States which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts.

9. **DEFAULT AND ACCELERATION.** This In Lieu Note is secured by a Deed of Trust. All covenants, conditions and agreements contained in the Deed of Trust and the Loan Agreement are hereby made a part of this In Lieu Note. Borrower agrees that the unpaid balance of the then principal amount of this In Lieu Note, shall, at the option of Lender, become immediately due and payable upon any Event of Default as defined in the Loan Agreement which has not been cured pursuant to that Loan Agreement, including without limitation the failure of Borrower to make any payment when due. Upon any Event of Default, Lender may exercise any other right or remedy permitted under the Loan Agreement, this In Lieu Note and the Deed of Trust (collectively, the "Loan Documents"). Notwithstanding anything to the contrary contained in the Loan Documents, Lender hereby agrees that any cure of any default made or tendered by Borrower's Limited Partners shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

10. **NO OFFSET.** Borrower hereby waives any rights of offset it now has or may hereafter have against Lender, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this In Lieu Note.

11. **WAIVERS.** Presentment, notice of dishonor, and protest are waived by all makers, sureties, guarantors, and endorsers of this In Lieu Note, if any.

12. **CONSENTS AND APPROVALS.** Any consent or approval of Lender required under this In Lieu Note shall not be unreasonably withheld or delayed.

13. **NOTICES.** Except as may be otherwise specifically provided herein, any approval, notice, direction, consent request or other action by Lender shall be in writing and may be communicated to Borrower at the principal office of Borrower set forth above, or at such other place or places as Borrower shall designate in writing, from time to time, for the receipt of communications from Lender.

14. **BINDING UPON SUCCESSORS.** All provisions of this In Lieu Note shall be binding upon and inure to the benefit of the successors-in-interest, transferees, and assigns of Borrower and Lender.

15. **GOVERNING LAW.** This In Lieu Note shall be interpreted under and governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

16. **SEVERABILITY.** Every provision of this In Lieu Note is intended to be severable. If any provision of this In Lieu Note shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

17. **TIME.** Time is of the essence in this In Lieu Note.

18. **ATTORNEYS' FEES AND COSTS.** In the event any legal action is commenced to interpret or to enforce the terms of this In Lieu Note, the prevailing party in any such action shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

19. **WAIVER.** Any waiver by Lender of any obligation in this In Lieu Note must be in writing. No waiver shall be implied from any failure of Lender to take, or any delay or failure by Lender to take action on any breach or default by Borrower or to pursue any remedy allowed under this In Lieu Note or applicable law. Any extension of time granted to Borrower to perform any obligation under this In Lieu Note shall not operate as a waiver or release from any of its obligations under this In Lieu Note.

20. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this In Lieu Note must be in writing, and shall be made only if executed by both Borrower and Lender.

21. **NONRECOURSE.** Except as expressly provided in the second paragraph of this section, Borrower, and Borrower's partners, officers, directors, employees and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, this In Lieu Note. The sole recourse of the Lender with respect to the principal of, or interest on, the In Lieu Note shall be to the property securing the indebtedness evidenced by the In Lieu Note. However, nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement against all such security for the In Lieu Note of all the rights and remedies of the Lender, or (ii) be deemed in any way to impair the right of the Lender to assert the unpaid principal amount of the In Lieu Note as demand for money within the meaning and intentment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the In Lieu Note, except as hereafter set forth; nothing contained herein is intended to relieve Borrower of personal liability to the extent of actual damages for (i) Borrower's fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges (which are not contested by Borrower in good faith) which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust or other Loan Documents; (iv) the material misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (v) Borrower's indemnification obligations under Article 6 and Article 7 of the Loan Agreement; and (vi) payment to the Lender of any rental income or other income arising with respect to the Property received by Borrower after the Lender has given notice to Borrower of the occurrence of an Event of Default and after the expiration of all applicable notice and cure periods, subject to the rights of any lender providing a loan secured by the Property to which the Lender has subordinated the Deed of Trust.

22. **LOAN AGREEMENT CONTROLS.** In the event that any provisions of this In Lieu Note and the Loan Agreement conflict, the terms of the Loan Agreement shall control.

BORROWER:

McClelland Santa Maria, L.P.
a California Limited Partnership

By: Surf Development Company, a California
nonprofit public benefit corporation
Its: Managing General Partner

By: _____
Raymond Down
President

AND

By: Roope, LLC
Its: Administrative General Partner

By: _____
Name: Caleb Roope
Title: Manager

EXHIBIT G
IN LIEU REGULATORY AGREEMENT