

**PURCHASE, SALE AND  
DEVELOPMENT AGREEMENT**  
**for Port Salerno Affordable Housing**

THIS PURCHASE, SALE AND DEVELOPMENT AGREEMENT FOR PORT SALERNO AFFORDABLE HOUSING (“Agreement”) is made and entered into as of this \_\_\_\_ day of May 2022 (“Effective Date”), by and between East to West Development Corporation, a Florida not-for-profit corporation (“Developer”), and Martin County, a political subdivision of the State of Florida (“County”).

**RECITALS:**

1. The County is the sole owner of that certain real property located at 4701 SE Geraldine Street, Stuart, FL (Parcel ID# 25-38-41-002-007-00220-8) and 5358 SE Railway Avenue, Stuart, FL (Parcel ID# 25-38-41-002-007-00250-1), consisting of approximately .69 acres between SE Railway Avenue and SE Front Avenue South and fronting SE Railway Avenue and SE Geraldine Street, as more particularly described on **Exhibit A** attached hereto (“Property”), upon which Developer will construct four (4) new single-family detached homes (“Project”) for Developer’s income-eligible buyers of affordable housing (“Intended Use”).

2. The County published Request for Proposal #2021-3335 (“RFP”) in order to identify qualified organizations to construct the Project, and Developer’s proposal was recommended and selected by the County for the award.

3. Pursuant to the RFP, Developer will provide County, on or before the Closing Date, with a firm financing commitment from a lending institution or other source of investment financing for construction of the Project, and Developer desires to construct the Project to meet or exceed all the minimum requirements of the RFP.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the Developer and County agree as follows:

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated by this reference.

**Section 2. Definitions.** As used in this Agreement, the following terms shall have the following meanings or refer to a particular exhibit attached to this Agreement:

“Affordable Housing” shall have the meaning of “Affordable” as set forth in Section 420.0004, Florida Statutes and of “Affordable housing” as set forth in Section 2.4 of the Martin County Comprehensive Growth Management Plan.

“Applicable Laws” shall mean any applicable federal, state or local law, statute, code, ordinance, regulation, court or administrative order, permits, and other requirements now existing or hereafter enacted, adopted, promulgated, entered, or issued by Governmental Authorities, including but not limited to the Code, the Florida Building Code, the Florida Construction Lien Law, and that govern the environment and the health, safety and welfare of the public.

“Business Day” shall mean Monday through Friday, except for federal and state holidays. All other references to days in this Agreement shall mean calendar days.

“Code” shall mean the Port Salerno Community Redevelopment Plan, Martin County

Comprehensive Growth Management Plan, Land Development Regulations and General Ordinances now existing or hereafter enacted, adopted, promulgated, entered, or issued by the County.

“Governmental Authorities” shall mean the United States, the State of Florida, Martin County, or any other governmental agency or any instrumentality of any of them.

“Total Development Costs” shall mean the total costs, fees and expenses contained in the Development Budget, as described in Section 6.2 below, for Developer to perform the Work and complete the Project.

“Unit” shall mean a new, single-family, detached residential housing unit in the Project to be sold by Developer to an income-eligible buyer for affordable housing.

### **Section 3.     Representations and Warranties.**

3.1     County.   The County represents and warrants to the Developer on the Effective Date of this Agreement and on the Closing Date, as follows:

(a)       That (i) it has the full right, power and lawful authority to enter into this Agreement and to perform its obligations under this Agreement, and upon execution and delivery of this Agreement shall constitute the valid and binding contract of the County, fully enforceable in all respects; and (ii) the execution and delivery of this Agreement and the performance by the County hereunder, shall not conflict with, or breach or result in a default under, any contract to which it is bound.

(b)       To the best of County’s knowledge, there are no pending or threatened litigation, or judicial, municipal, or administrative proceedings, consent decrees or judgments against County, or has the County received a written summons, citation, directive, notice, complaint or letter from any Governmental Authorities specifying an alleged violation of any Applicable Laws concerning the Property, or that the Property has not been used or is presently being used for the generation, release, treatment, discharge, emission, handling, storage, transportation or disposal of any hazardous or toxic substances, contaminants, pollutants, wastes, or materials which is regulated by Governmental Authorities, which would prevent, hinder, or delay the County’s ability to perform its obligations hereunder, or would materially and adversely affect the Property or Developer’s Intended Use and development of the Property.

(c)       The County exclusively owns fee simple title to the Property, there are no leases and there are no parties other than the County in possession of the Property; there are no rights of first offer, rights of first refusal, or any options to purchase the Property, and none of the foregoing exist on the Effective Date of this Agreement and shall not exist on the Closing Date. Seller has no knowledge and has received no notice that there are any condemnation or eminent domain proceedings which are pending or have been threatened that affect the Property; and the County shall not take any action that amends or terminates an existing easement, dedication, restriction, or right-of-way affecting the Property or that creates a new easement, dedication, restriction, or right-of way affecting the Property, without first providing thirty (30) days written notice to Developer of its intent to do so.

3.2     Developer. The Developer represents and warrants to the County on the Effective Date of this Agreement and on the Closing Date, as follows:

(a)       That (i) it is duly organized, validly existing and in good standing under the laws of Florida; (ii) it has the full right, power and lawful authority to enter into this Agreement and to perform its obligations under this Agreement, and upon execution and delivery of this Agreement shall constitute the valid and binding contract of the Developer, fully enforceable in all respects; and (iii) the execution and delivery of this Agreement and the performance by the Developer hereunder, shall not conflict with, or

breach or result in a default under, any contract to which it is bound or Developer's governing documents. Developer shall have site control over the Project, and shall always own and control the foregoing for the duration of this Agreement, whether or not the Developer subsequently assigns this Agreement in accordance with Section 12.3 below.

(b) The Developer possesses and shall maintain during the term of this Agreement all licenses required by Applicable Laws to perform the Work.

(c) To the best of Developer's knowledge, there is no pending or threatened litigation, or judicial, municipal or administrative proceedings, consent decrees or judgments against Developer, which would prevent, hinder or delay the Developer's ability to perform its obligations hereunder.

#### **Section 4. Property Transaction.**

4.1 Property Transfer. Subject to the provisions of this Agreement, including but not limited to the obligation of Developer to construct owner-occupied affordable housing on the Property, County agrees to transfer title to the Property to Developer on the Closing Date (defined below), together with all easements, rights of way, appurtenances, riparian and littoral rights, if any, and other rights and benefits belonging to or in any way related to the Property, for nominal consideration, subject to the terms, covenants and conditions set forth herein. Notwithstanding any provision of this Agreement to the contrary, the term "Property" shall not include that certain parcel of land consisting of approximately .039 acres, as more particularly described on **Exhibit A-1** attached hereto ("Excluded Parcel"). County shall retain possession of and title to the Excluded Parcel.

4.2 Due Diligence Period. Within fifteen (15) days after the Effective Date, County, at its sole expense, shall deliver to Developer a copy of all Property reports, tests and studies (such as a land survey, Property appraisal, title policy, soil boring, hydrological, topographical, and environmental site assessment audit), in its possession or control, which Property reports shall be provided on an "AS IS, WHERE IS" basis. Developer shall have the right from the Effective Date and continuing uninterrupted for the following ninety (90) days ("Due Diligence Period") to access the Property and conduct a due diligence investigation and analysis of the Property, including but not limited to obtaining current surveys, soil boring tests, hydrological and topographical studies, and environmental site assessment audits. If Developer determines that it is not satisfied with its due diligence investigation and analysis of the Property, in Developer's sole judgment, and Developer notifies County before the expiration of the Due Diligence Period of its election to terminate this Agreement, this Agreement shall become void and of no further force or effect, and there shall be no further obligation or liability on either of the parties, except as otherwise specifically provided in this Agreement. If any inspection or test conducted by Developer disturbs the Property, Developer shall restore the Property to substantially the same condition it existed before such inspection or test was performed. If Developer elects to terminate this Agreement, as permitted and as provided for herein, then, at County's request, Developer shall deliver to County a copy of all inspection reports obtained by Developer pertaining to the Property. Any inspection of the Property performed by Developer or Developer's agents, contractors or consultants prior to the Closing Date shall be performed at the sole risk, cost and expense of Developer, and Developer shall be solely responsible for the acts, omissions, faults or neglects of Developer and Developer's agents, contractors and consultants with respect to any such inspections. Developer hereby agrees to indemnify and defend County and hold County harmless against all losses, damages, claims, demands, and liabilities incurred in connection with or arising out of Developer's inspection(s) of the Property unless any claim results from an act (or omission to act) of the County, or its employees or agents, or by a third party not under the supervision of or in a direct contract with Developer. Developer shall not allow any liens to be filed against the Property in connection with Developer's access and inspection rights contained herein, and if such liens are filed against any portion of the Property, Developer shall have such liens bonded or released of record within thirty (30) days of Developer's or County's notice of the filing of same. This section shall survive any termination of this

Agreement.

Developer agrees to treat all non-public information received with respect to the Property, whether such information is obtained from County or from Developer's due diligence investigations, in a confidential manner. Developer shall not disclose any such information to any third parties, other than such disclosure to Developer's counsel, consultants, accountants and advisers as may be required in connection with the transaction contemplated hereby (such disclosure to be made expressly subject to this confidentiality requirement), unless required by law or court order.

4.3 Title Examination. During the Due Diligence Period, Developer, at its sole expense, shall obtain a title insurance commitment ("Title Commitment") and, after Closing, an owner's policy of title insurance issued by a Florida licensed title insurer. The costs and expenses relative to the issuance of the Title Commitment and owner's policy (i.e. policy premium, title search, closing fee, etc.) shall be borne by Developer. County shall have no obligation to cure or remove any title exceptions listed on Schedule B-II of the Title Commitment, except for (i) those "standard exceptions" relating to mechanics' liens, parties in possession, taxes or assessments which are not shown as existing liens in the public records, and the "gap" exception and (ii) liens, encumbrances and reservations directly caused by County (or its employees or agents) or any third party following the Effective Date through and including the Closing Date. Developer's right to terminate this Agreement under Section 4.2 hereof shall be Developer's sole right with respect to any exceptions disclosed in the Title Commitment that are unacceptable to Developer.

4.4 Closing Conditions.

(a) Developer's obligation to acquire the Property under this Agreement from County is subject to the satisfaction of each of the following conditions (any one of which may be waived in whole or in part by Developer): (a) Developer is satisfied at the expiration of the Due Diligence Period, in its sole discretion, with the strong likelihood that Developer shall secure sufficient development and construction funding sources ("Sources of Funds") on or before the first closing of a Unit, to fully cover the anticipated Project Deficit (defined below), and those likely Sources of Funds shall be identified on **Exhibit E** attached hereto; (b) Developer has in fact secured funding for the total infrastructure costs for the Project, expected to be approximately Two Hundred and Fifty Thousand Dollars (\$250,000.00), on or before the Closing Date; (c) all representations and warranties by County set forth in this Agreement are true and correct, in all material respects, on the Closing Date; (d) County shall have performed, observed and complied with all terms, covenants and conditions required by this Agreement to be performed on its part prior to the Closing Date; (e) there are no pending or threatened building, development, utility or other moratoria, injunction, or court order in effect, at the expiration of the Due Diligence Period or on the Closing Date, which would interfere with the immediate development, construction, use or occupancy of the Property for Developer's Intended Use; (f) there is no material and adverse change to the physical or environmental condition of the Property from the Effective Date except to the extent caused by Developer; and (g) there shall not be any litigation or other proceedings, pending or threatened, against the Property, that would affect the Developer's development and Intended Use of the Property. Unless all the conditions contained in this Section 4.4(a) are satisfied (or waived by Developer) by the specified time period: (i) Developer or County may, without any obligation, extend the Closing Date until such conditions are satisfied (not to exceed ninety (90) days), (ii) Developer may terminate this Agreement, or (iii) Developer may consummate the Closing in which event this Agreement shall be construed as if such conditions no longer exist.

(b) County's obligation to convey the Property under this Agreement to Developer is subject to the satisfaction of each of the following conditions (any one of which may be waived in whole or in part by County): (a) all representations and warranties by Developer set forth in this Agreement are true and correct, in all material respects, on the Closing Date and (b) Developer shall have performed, observed and complied with all terms, covenants and conditions required by this Agreement to be performed on its part prior to the Closing Date. Unless all the conditions contained in this Section 4.4(b) are satisfied (or waived by County) by the specified time period: (i) Developer or County may, without any obligation, extend

the Closing Date until such conditions are satisfied (not to exceed ninety (90) days), (ii) County may terminate this Agreement, or (iii) County may consummate the Closing in which event this Agreement shall be construed as if such conditions no longer exist.

4.5 Closing; Closing Documents. The closing of County's transfer of the Property to Developer ("Closing") shall occur on the date that is one hundred twenty (120) days after the Effective Date ("Closing Date") at County's office or by "mail-away" closing. At Closing, County shall deliver to Developer the following documents properly executed (and notarized, if required by applicable law): (a) county deed to the Property ("Deed"); (b) no-lien, gap and exclusive possession owner's affidavit of title stating there are no leases or parties in possession; (c) a non-foreign transferor certification that complies with the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended; (d) a closing affidavit in the form as required by the title insurer to allow for the deletion of the standard title exceptions on the title insurance policy; (e) closing statement; (f) a recordable Project Declaration (as hereinafter defined); and (g) such other documents as are reasonably requested by the title insurer or County to consummate the Closing of the Property. At Closing, Developer shall deliver to County the following documents properly executed: (a) Developer resolution approving its acquisition of the Property from County, authorizing Developer's execution and delivery of all closing documents to consummate the transactions contained in this Agreement, and specifying the officers duly authorized to execute those closing documents on behalf of Developer have the full authority, power and right to act accordingly; (b) a buyer's closing affidavit in the form as required by the title insurer to allow for the deletion of the standard title exceptions on the title insurance policy; (c) closing statement; (d) a recordable Project Declaration; and (e) such other documents as are reasonably requested by County or the title insurer to consummate the Closing of the Property. All Closing documents specified above shall follow the custom and practice for similar transactions in the County where the Property is located.

The parties acknowledge and agree that the Deed described in this Section 4.5 shall provide for the County's Right of Reverter (defined below) in the event the Property (i) is not developed in accordance with this Agreement or (ii) fails to remain as Affordable Housing as provided in the Project Declaration. Additionally, the Deed shall provide that prior written consent shall be required from the County in the event the Developer or any subsequent owner sells, leases or otherwise transfers the Property or any portion thereof, and the Deed shall include an "Affordability Clause" which shall be a restrictive covenant running with the land for a period of twenty (20) years. Developer agrees that the deed restrictions set forth above shall be included in any deed conveying title to a Unit from Developer to an end user. The Affordability Clause shall read as follows:

**"AFFORDABILITY PERIOD. This Property has been provided for the purpose of creating safe, decent and affordable housing for households that could not otherwise afford it. The Property shall be owner-occupied by an affordable housing qualified recipient, as such is defined in the Martin County Code or other applicable law. Should the Property be transferred thereafter at any time during the 20-year affordability period, it shall be transferred to an affordable housing qualified recipient. This deed restriction shall remain in effect for a period of twenty (20) years commencing on the date title is transferred to the first owner and ending twenty years thereafter."**

4.6 Closing Costs. The County shall bear no closing costs associated with the conveyance of the Property, except for its own attorneys' fees and as specified in Section 4.3 above. Developer shall pay for all closing costs associated with the conveyance of the Property, including, without limitation, the following: (a) all recordation costs; (b) all documentary and transfer taxes on the Deed; (c) the cost of title insurance and all related costs; (d) all costs and expenses relating to financing; (e) all costs related to Developer's due diligence and survey; (f) closing fees of the title and closing agent; and (g) the costs of Developer's consultants to consummate the Closing of the Property. Developer acknowledges and the County represents that the Property is free and clear of ad valorem and non-ad valorem taxes due to the County's tax-exempt status and shall convey the Property as such. Developer shall be responsible for the payment of all ad valorem and non-ad valorem taxes from and after the date of Closing. County shall have

the right to select the title and closing agent.

4.7 Property Sold As-Is; Release. DEVELOPER HEREBY EXPRESSLY ACKNOWLEDGES AND AGREES THAT DEVELOPER WILL HAVE, AS OF CLOSING, THOROUGHLY INSPECTED AND EXAMINED THE STATUS OF TITLE TO THE PROPERTY, THE SURVEY OF THE PROPERTY, THE PHYSICAL CONDITION OF THE PROPERTY, AND ALL REPORTS OBTAINED BY DEVELOPER DURING THE DUE DILIGENCE PERIOD TO THE EXTENT DEEMED NECESSARY BY DEVELOPER IN ORDER TO ENABLE DEVELOPER TO FULLY EVALUATE THE PURCHASE OF THE PROPERTY. DEVELOPER HEREBY FURTHER ACKNOWLEDGES AND AGREES THAT DEVELOPER IS RELYING SOLELY UPON THE INSPECTION, EXAMINATION, AND EVALUATION OF THE PHYSICAL CONDITION OF THE PROPERTY BY DEVELOPER AND THAT DEVELOPER IS PURCHASING, AND AT CLOSING WILL ACCEPT, THE PROPERTY ON AN “AS IS,” “WHERE IS” AND “WITH ALL FAULTS” BASIS, WITHOUT REPRESENTATIONS, WARRANTIES AND/OR COVENANTS, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE, EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT OR IN THE CLOSING DOCUMENTS.

Except as specifically set forth in this Agreement or in the closing documents, Developer acknowledges and agrees that it has not (and shall not) rely upon any statement and/or information from whomsoever made or given (including, but not limited to, any broker, attorney, agent, employee or other person representing or purporting to represent County) directly or indirectly, verbally or in writing, and County is not and shall not be liable or bound by any such statement and/or information.

Based solely on Developer’s investigations of the Property and the County’s representations and warranties contained in this Agreement, Developer, on behalf of itself and all future owners and occupants of the Property, to the extent permissible by Applicable Laws, hereby waives and releases County from any claims for recovery of costs associated with conduct of any voluntary action or any remedial responses, corrective action or closure under any applicable federal, state or local environmental laws (“Environmental Laws”). For purposes of this Agreement, the term “Environmental Laws” shall include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9601 *et seq.* and the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 *et seq.*, as amended from time to time; and any similar federal, state and local laws and ordinances and the regulations and rules implementing such statutes, laws and ordinances. The foregoing waiver and release (i) shall not extend under any circumstances to the intentional acts (or omission to act), willful misconduct, fraud, misrepresentation, breach of trust or other duty of the County under this Agreement or Applicable Laws, or negligence of the County, or its employees or agents; (ii) shall be deemed received on the Closing Date as if agreed to at that time; and (iii) shall survive the Closing.

## **Section 5. Pre-Development Stage.**

5.1 Pre-Development Budget. The County disclosed and the Developer has acknowledged that the Project site is not serviced by any utility infrastructure. Consequently, the Developer has formulated a detailed budget outlining the soft costs and hard costs of constructing the infrastructure for the Project (“Pre-Development Budget”), which is attached as **Exhibit B** to this Agreement. Subsequent to formulating a funding strategy and securing the necessary funds, the Developer will begin design, permitting and construction of the infrastructure improvements. Potable water is available through a Martin County Utilities 6” diameter water main adjacent to the Property within the SE Railway Avenue right-of-way. Developer shall be responsible for the permitting and construction of necessary water taps and laterals from the water main to the Property and shall pay the appropriate water Capital Facility Charges at the time of development. For sanitary sewer, Developer may use the Martin County Utilities 12” force main adjacent to the Property within the SE Primrose right-of-way. Developer shall be responsible for the permitting and construction of a single tap to serve the Property via one or more private grinder stations and shall pay the

appropriate wastewater Capital Facility Charges at the time of development. This Property is planned to be served by vacuum sewer in the future, and the Developer, at the time of availability, will have the option to connect to the new system and remove the grinders at its sole cost and expense.

5.2 Governmental Approvals. The term “Development Approvals” as used in this Agreement, shall mean all County approvals, consents, permits, amendments, re-zonings, conditional uses or variances as well as such other official actions of the Governmental Authorities which are necessary to commence construction of the Project. Development Approvals shall further include the approval of a Project declaration of covenants, conditions and restrictions to govern the Units (“Project Declaration”) that shall be prepared by Developer and approved by County, and shall be signed at Closing and recorded against the Property. The Project Declaration shall include, without limitation, the following provisions: (i) that the Project shall meet the standards for affordable housing, as set forth in the Martin County Comprehensive Plan, for a period of twenty (20) years; (ii) that the Project shall comply with the Port Salerno Redevelopment Plan and the Martin County Land Development Regulations; (iii) that the County’s written consent shall be required prior to Developer’s or any subsequent owner’s sale, lease or transfer of a Unit in the Project; and (iv) any additional restrictions reasonably required by the County.

Developer shall be responsible for initiating and diligently pursuing the Development Approval applications. The County shall fully cooperate with the Developer in processing all necessary Development Approvals to be issued by the County and any other Governmental Authorities. The parties recognize that certain Development Approvals will require the County and/or its boards, departments or agencies, acting in their police power/quasi-judicial capacity, to consider certain governmental actions. The parties further recognize that all such considerations and actions shall be undertaken in accordance with established requirements of Applicable Laws in the exercise of the County’s jurisdiction under its police power. Nothing in this Agreement is intended to limit or restrict the powers and responsibilities of the County in acting on such applications by virtue of the fact that the County may have been required to join in and consent to such applications. Notwithstanding any provision of this Agreement to the contrary, County and Developer agree that the cost of all Development Approvals, including, without limitation, all permit fees and impact fees payable to any governmental agencies with respect to all applications for Development Approvals, shall be paid for by Developer, except that Developer shall be entitled to all impact fee credits, if any, in effect for the Property. Nothing in this Agreement is intended to, nor shall be construed as, zoning by contract.

5.3 Potential Homebuyer Plan. The Developer agrees to prepare a Potential Homebuyer Plan to attract qualified buyers who either live or work in Martin County to purchase the Units to be constructed at the Project (“Potential Homebuyer Plan”). Developer commits to engaging with the County to determine if their current employees may be income eligible, and Developer agrees that conveyance of each Unit shall be to a qualified buyer who has either lived or worked in Martin County for a minimum of twelve (12) months immediately preceding the purchase of a Unit. A homebuyer outreach program may be part of the Potential Homebuyer Plan, which may include recruitment of buyers in local law enforcement and teachers in local area schools. The Potential Homebuyer Plan shall also include engaging local banks and area lending institutions that have program requirements to provide mortgages for income eligible, first-time homebuyers. Developer shall provide the Potential Homebuyer Plan to the County Staff within sixty (60) days following the Effective Date. Subject to the reasonable approval of the County and in accordance with Applicable Laws, the Developer shall have the right to place one or more appropriate signs upon the Property indicating that the Developer is building Units for sale and to indicate there will be models and sales activity at the Project.

5.4 The provisions of this Section 5 shall survive the Closing.

## **Section 6. Development Stage.**

6.1 Developer's Project Work. Subject to the terms and provisions of this Agreement, Developer shall be responsible for the design, engineering, permitting and construction of the Project in accordance with the Governmental Approvals, together with the infrastructure improvements necessary to serve the Project. In connection therewith, Developer shall provide or cause to be provided and furnish or cause to be furnished, all materials, supplies, apparatus, appliances, equipment, fixtures, tools, implements and all other facilities provided for in the Governmental Approvals, and shall provide all labor, supervision, transportation, utilities and all other services, as and when required for or in connection with the construction, furnishing or equipping of, or for inclusion or incorporation in the Project (collectively, the "Work"). The Work shall be substantially complete upon issuance of the final certificate of occupancy ("CO") by the County for a Unit and upon satisfaction by the Developer of all applicable regulatory building requirements and Developer obligations under this Agreement. The County and Developer hereby agree that the completion date for the Project (i.e. the date by which all Units shall have received a CO) shall be on or before that date that is eighteen (18) months after the Closing Date (the "Construction Completion Date"), subject to Force Majeure events and other permitted extensions as provided in this Agreement.

6.2 Development Plan and Development Budget. Developer and County acknowledge that the Total Development Costs for the Project are expected to exceed the anticipated total sales revenue generated from the sales of all Units to be constructed on the Property. The actual deficit between total sales revenue of the Units and the Total Development Costs ("Project Deficit") can only be determined when all Units in the Project are sold. The County and Developer acknowledge that the Project Deficit shall be funded using proceeds from sources secured in accordance with the funding strategy. Developer shall provide the County, not later than thirty (30) days following the closing of the last Unit in the Project, a summary report detailing the closing dates of the Units, the purchase price of each Unit, and other relevant Project sales information. A Development Plan and Development Budget shall be attached as Exhibit C and Exhibit D, respectively, to this Agreement.

6.3 The provisions of this Section 6 shall survive the Closing.

## **Section 7. Performance of the Work.**

7.1 In the event that the Developer discovers any Hazardous Materials on the Property, Developer shall promptly notify the County of such discovery. To the extent that the Work cannot legally proceed until such Hazardous Materials have been remediated, the Developer shall not proceed with any further Work until the remediation is complete and the Developer is legally permitted to recommence the Work, which shall be evidenced by a no further action letter issued by the applicable Governmental Authorities to County and Developer. The cost of remediating such Hazardous Materials shall be Developer's sole responsibility unless County fails to comply with its environmental obligations under this Agreement, in which case, County shall be responsible for its own acts or omissions. Absent County's non-compliance, as described in the immediately preceding sentence, the Developer, at its sole cost and expense, shall diligently proceed to take such actions as may be required by the applicable Governmental Authorities to complete such remediation and to obtain a no further action letter from the applicable Governmental Agencies.

7.2 Prior to commencement of construction of the Project, Developer shall obtain and deliver to the County, (i) performance bonds and labor and material payment bonds reasonably acceptable to the County (collectively referred to herein as the "Bonds"), which Bonds shall be dual obligee bonds in favor of Developer and the County, or (ii) a completion guaranty in form and substance reasonably acceptable to the County and its legal counsel from an entity or individual reasonably acceptable to the County, taking into account the combined assets of such entity and/or individual. The Bonds, if required under the preceding sentence, shall in all respects conform to the requirements of the laws of the State of Florida and



shall: (a) name the Developer and County as obligees; (b) be in a form and substance reasonably satisfactory to the County and its legal counsel; (c) the surety(ies) providing the Bonds must be licensed and duly authorized to transact business in the State of Florida and must be listed in the Federal Register (Dept. of Treasury, Circular 570); (d) the cost of the premiums for the Bonds shall be included in the Development Budget; and (e) within ten (10) Business days of their issuance, Developer shall record the Bonds in the Public Records of Martin County, which may be recorded by attaching the same to the notice of commencement.

7.3 Except as may be otherwise expressly set forth in this Agreement and specifically excluding all costs and expenses incurred by the County to administer this Agreement or otherwise perform its obligations hereunder, Developer shall be responsible for all costs and expenses for the design, engineering, permitting, construction, administration, and inspection of the Work including, but not limited to, the following: (a) all labor and materials for the construction of the Work; (b) all compensation for the design professionals and engineers (and any other consultants) in connection with the preparation of the site plan, Governmental Approvals, and other documents; (c) all permit, license, connection and impact fees, and other fees of Governmental Authorities which are legally required at any time during the Developer's performance of the Work, except as otherwise waived by this Agreement; (d) all costs associated with the installation, connection, removal, replacement, relocation and protection of all utilities and all related infrastructure including but not limited to water, sewer, stormwater drainage, telephone, cable, or electric, (e) all sales, use and other similar taxes for the Work, which are legally required at any time during the Developer's performance of the Work; and (f) all license fees that are legally required at any time during the Developer's performance of the Work. The parties acknowledge and agree that such costs and expenses shall be included in the Pre-Development Budget and/or Development Budget. Developer shall defend all suits or claims for Developer's infringement of any intellectual property rights related to the Work to be performed by Developer hereunder and shall hold County harmless from any loss, liability or expense on account thereof, including reasonable attorneys' fees (at both the trial and appellate levels) unless any claim results from an act (or omission to act) of the County or its employees or agents, or by a third party not under the supervision of or in a direct contract with Developer.

7.4 Developer agrees that the Work performed under this Agreement shall be performed in accordance with Applicable Laws.

7.5 Developer represents and warrants to the County that it possesses and shall maintain during the term of this Agreement and through construction of the Project all the licenses required by Applicable Laws to perform the Work and that the direct contracts entered into by Developer shall require that: (a) its contractors, subcontractors, design professionals, engineers and consultants possess the licenses required by Applicable Laws to perform the Work, (b) the Work shall be executed in a good and workmanlike manner, free from defects, and (c) all materials shall be new (not used or reconditioned), except as otherwise expressly provided for in the Governmental Approvals.

7.6 Developer shall comply with Applicable Laws of Governmental Authorities having jurisdiction for safety of persons and property to protect them from damage, injury or loss, and shall erect and maintain commercially reasonable safeguards for such safety and protection, taking into consideration the effect on the Development Budget. Developer shall notify owners of adjacent property regarding the commencement of the Work if required by Applicable Laws. All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the acts or omissions of Developer, any contractor, subcontractor, materialman, supplier, vendor, or any other individual or entity directly or indirectly engaged by any of them to perform or furnish any of the Work shall be remedied by Developer. Developer's duties and responsibilities for safety and the protection of the construction on the Project site shall continue until final completion of the Project.

7.7 Developer shall be responsible for coordinating any disclosure of material safety data

sheets or other hazardous communication information required by Applicable Laws. In emergencies affecting the safety or protection of persons during construction at the Property, Developer, without special instruction or authorization from the County, shall take reasonably appropriate action to prevent threatened damage, injury or loss. Developer shall give County prompt written notice if Developer believes that any significant changes in the construction or variation from the Governmental Approvals have been caused thereby.

7.8 In emergencies affecting the safety or protection of persons during construction at the Property, Developer, without special instruction or authorization from the County, shall take reasonably appropriate action to prevent threatened damage, injury or loss. Developer shall give County prompt written notice if Developer believes that any significant changes in the construction or variation from the Governmental Approvals have been caused thereby.

7.9 Developer shall confine construction equipment, the storage of materials and equipment, and the operations of construction on the Property, to not unreasonably interfere with the use of easements, rights-of-way, and other third-party property.

7.10 During the performance of the Work, Developer shall keep the Property free from accumulations of waste materials, rubbish, dust and other debris resulting from the construction. Upon final completion of the Work, Developer shall remove the foregoing and all construction equipment and machinery from the Property. Developer shall leave the Property clean and ready for occupancy by the Unit buyers at the time of substantial completion of the Units except as necessary to achieve final completion.

7.11 Developer shall not allow or seek to allow Work to occur outside of the County's designated hours for construction without the prior written consent of the County in each instance, which consent shall not be unreasonably withheld, delayed or conditioned.

7.12 Developer shall diligently pursue in good faith the completion of the Work, so that final completion of the Project is achieved on or before the Construction Completion Date, subject to Force Majeure events and any other permitted extensions as provided in this Agreement.

7.13 If Developer fails to commence construction of each Unit within ninety (90) days of issuance of all necessary permits for each Unit or fails to complete construction of all Units on or before the Construction Completion Date, subject to Force Majeure events and other permitted extensions as provided in this Agreement, County may, in addition to those other rights and remedies that are available to the County under this Agreement, require that the Property be transferred back to the County ("Right of Reverter"). The County must first deliver written notice of breach to Developer and Developer shall have the right to cure that breach in accordance with Section 9.1(a) below, before County's Right of Reverter may be exercised. If Developer fails to cure the breach in accordance with Section 9.1(a) below and the County exercises its Right of Reverter, then Developer, for nominal consideration, shall execute and deliver to County within ten (10) Business Days thereafter: (a) a special warranty deed ("Reverter Deed") which shall transfer title to the Property to the County and (b) an affidavit stating all labor, services and materials concerning the Property through the date of execution of the Reverter Deed have been paid in full, at which time this Agreement shall automatically be terminated and have no further force or effect, and there shall be no further obligation or liability on either of the parties, except as otherwise specifically provided in this Agreement. If the County exercises its Right of Reverter, Developer shall satisfy any and all liens affecting the Property and pay the cost to record the Reverter Deed. Conversely, upon the occurrence of event (b) in Section 9.2 below, County's Right of Reverter shall be totally extinguished and the County agrees to execute and deliver to Developer a total waiver and release of County's Right of Reverter ("Reverter Release"), in recordable form and reasonably acceptable to Developer, within ten (10) Business days following the occurrence of event (b) in Section 9.2 below, and County shall pay the cost to record the Reverter Release. The County agrees to subject and subordinate its Right of Reverter to any construction

mortgage financing obtained by Developer to complete the Project.

7.14 Developer shall provide to each Unit purchaser a one (1) year limited warranty for the Unit (“Limited Warranty”) starting from the date of closing of that Unit.

7.15 Developer shall design, engineer and construct each Unit in accordance with the Governmental Approvals and the specifications and requirements within the RFP, solely to the extent such specifications and requirements of the RFP are listed on **Exhibit F** to this Agreement.

7.16 The provisions of this Section 7 shall survive the Closing.

## **Section 8. Books and Records.**

8.1 Developer shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by it in conjunction with this Agreement. Developer shall comply with Florida's Public Records Law. Specifically, Developer shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the County to perform the service.

(b) Upon request, provide the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in state law or otherwise provided bylaw.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following termination of the Agreement if Developer does not transfer the records to the County.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the County all public records in possession of Developer upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology system of the County.

IF DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, DEVELOPER SHOULD CONTACT THE COUNTY’S CUSTODIAN OF RECORDS AS FOLLOWS:

County Clerk’s Office  
100 SE Ocean Boulevard  
Stuart, FL 34994  
772-288-5576

8.2 Failure of Developer to comply with these requirements shall constitute a material breach of this Agreement.

## **Section 9. Default; Termination.**

9.1 Default.

(a) If Developer shall default in complying with any term, covenant or condition of this Agreement to be performed or complied with by Developer or any representation or warranty shall prove to be incorrect, which default is not cured within thirty (30) days following Developer's receipt of written notice thereof (or such longer period of time as may be reasonably required by Developer to cure the breach if such breach is by its nature not reasonably susceptible of being cured within such thirty (30) day period provided that Developer advises County in writing of such fact and commences its cure within the initial thirty (30) day period and diligently proceeds to completely cure that breach), the County shall be entitled to seek any available legal and equitable remedies, including but not limited to the right to terminate this Agreement, a lawsuit for monetary damages (excluding consequential, special and punitive damages), exercise of the Right of Reverter, and/or specific performance of Developer's obligations hereunder.

(b) If the County shall default in complying with any term, covenant or condition of this Agreement to be performed or complied with by the County or any representation or warranty shall prove to be incorrect, which default is not cured within thirty (30) days following the County's receipt of written notice thereof (or such longer period of time as may be reasonably required by the County to cure the breach if such breach is by its nature not reasonably susceptible of being cured within such thirty (30) day period provided that the County advises Developer in writing of such fact and commences its cure within the initial thirty (30) day period and diligently proceeds to completely cure that breach), Developer shall be entitled to seek any available legal and equitable remedies, including but not limited to the right to terminate this Agreement, a lawsuit for monetary damages (excluding consequential, special and punitive damages), and/or specific performance of the County's obligations hereunder.

9.2. Termination. This Agreement shall terminate upon the occurrence of the earlier of the following events: (a) a termination under Section 9.1 above; or (b) the completion of the development and construction of the Work and the remaining obligations of the parties under this Agreement with respect to the Project pursuant to the terms and conditions of this Agreement

9.3 Effect of Termination by County. Upon termination of this Agreement as a result of Section 9.1(a) above, the Developer shall, as soon as reasonably practicable but in no event later than the forty-fifth (45th) day after notice is given by County in accordance with Section 9.1 hereof: (a) deliver to the County all materials, equipment, tools and supplies, keys, contracts and documents relating to the Project, and copies of such other accountings, papers, and records as the County shall reasonably request pertaining to the Project; (b) assign such existing contracts relating to the development of the Project, to the extent assignable, as the County shall require; (c) vacate any portion of the Project then occupied by the Developer as a consequence of County's termination of this Agreement; (d) furnish all such information and cooperate in good faith in order to effectuate an orderly and systematic ending of the Developer's duties and activities hereunder and (e) deliver to the County any written reports required hereunder for any period not covered by prior reports at the time of termination. Developer shall further reproduce and retain copies of such records as it may need for record retention purposes and shall deliver the originals to the County.

## **Section 10. Indemnification.**

10.1 Indemnification by the Developer. Developer agrees to indemnify and hold the County, its commissioners, officials, and employees harmless to the fullest extent permitted by Applicable Laws, from and against any and all liabilities, losses, interest, damages, causes of action, costs or expenses (including without limitation, reasonable attorneys' fees, whether suit is instituted or not and if instituted, whether incurred at any trial or appellate level or post judgment), threatened or assessed against, levied upon, or collected from, the County arising out of, from, or in any way resulting from the negligence, willful misconduct, omission, fraud, or breach of trust or other duty of the Developer under this Agreement or Applicable Laws, or from a failure of the Developer to perform its obligations under this Agreement after the curative period under Section 9.1 has expired. Nothing herein shall be construed as a waiver of County's sovereign immunity, the provisions of Section 768.28, Fla. Stat., nor consent to be sued by third parties.

10.2 Notice of Indemnification. A party's duty to indemnify pursuant to the provisions of this Section 10 shall be conditioned upon the giving of written notice by such party of any suit or proceeding and upon the indemnifying party being permitted (without any obligation) to assume in conjunction with the indemnitor the defense of any such action, suit or proceeding in accordance with Section 10.3 below.

10.3 Third Party Claim Procedure. If a third party (including, without limitation, a governmental organization) asserts a claim against a party to this Agreement and indemnification in respect of such claim is sought under the provisions of this Section 10 by such party against another party to this Agreement, the party seeking indemnification hereunder (the "Indemnified Party") shall promptly (but in no event later than ten (10) Business Days prior to the time in which an answer or other responsive pleading or notice with respect to the claim is required) give written notice to the party against whom indemnification is sought (the "Indemnifying Party") of such claim. The Indemnifying Party shall have the right at its sole election to take over the defense or settlement of such claim by giving prompt written notice to the Indemnified Party at least five (5) Business Days prior to the time when an answer or other responsive pleading or notice with respect thereto is required. If the Indemnifying Party makes such election, it may conduct the defense of such claim through counsel or representative of its choosing (subject to the Indemnified Party's approval of such counsel or representative, which approval shall not be unreasonably withheld, conditioned or delayed), shall be responsible for the expenses of such defense, and shall be bound by the results of its defense or settlement of claim to the extent it produces damage or loss to the Indemnified Party. The Indemnifying Party shall not settle any such claim without prior written notice to and consultation with the Indemnified Party, and no such settlement involving any equitable relief or which might have a material and adverse effect on the Indemnified Party may be agreed to without its prior written consent. So long as the Indemnifying Party is diligently contesting any such claim in good faith, the Indemnified Party may pay or settle such claim at its own expense. Within twenty (20) Business Days after the receipt by the Indemnifying Party of written request by the Indemnified Party, the Indemnifying Party shall make financial arrangements reasonably satisfactory to the Indemnified Party, such as the posting of a bond or a letter of credit, to secure the total payment of its obligations under this Section 10 in respect of such claim. If the Indemnifying Party does not make such election, or having made such election does not proceed diligently to defend such claim, or does not make the financial arrangements described in the immediately preceding sentence, then the Indemnified Party may, upon three (3) Business Days' written notice (or shorter notice if a pleading must be filed prior thereto) and at the sole expense of the Indemnifying Party, take over the defense and proceed to handle such claim in its exclusive discretion and the Indemnifying Party shall be bound by any defense or settlement that the Indemnified Party may make in good faith with respect to such claim. The parties agree to reasonably cooperate in defending such third-party claims and the defending party shall have reasonable access to records, information, and personnel in control of the other party which are pertinent to the defense thereof.

## **Section 11. Insurance**

11.1 Required Insurance. Upon the Effective Date of this Agreement, Developer shall provide insurances certificates to the County showing proof that the following policies and coverages have been issued, all such certificates naming the County as an additional insured. Such certificate of insurance shall specifically state that the insurance is primary and non-contributory over any other insurance that may be available to County, and that a waiver of subrogation shall apply in favor of County. In addition, all policies shall provide that the County will receive thirty (30) days prior written notice of cancellation of any of the said policies.

Commercial General Liability Insurance - comprehensive general liability policy with minimum limits of One Million Dollars (\$1,000,000) per occurrence, and not less than Two Million Dollars (\$2,000,000) aggregate, which shall include contractual liability coverage under all indemnification provisions of this Agreement.

During Developer's construction of the Project, Developer shall maintain in full force and effect and at its expense any and all insurance policies as are reasonable and customary for a construction project of similar size, scope and location as the Project. If requested to do so by County, Developer shall, within thirty (30) days after receipt of a written request from County, provide County a certified, complete copy of the policies of insurance providing the coverage required.

**Section 12. Miscellaneous.**

12.1 Notices. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the party giving such notice) delivered by overnight courier by a nationally recognized courier, or by registered or certified mail (postage prepaid, return receipt requested), or by electronic mail, addressed to:

- (a) If to the County:

Martin County Real Property Manager  
2401 SE Monterey Road  
Stuart, FL 34996  
Attn: Carla Segura  
Email: [Real\\_Property@martin.fl.us](mailto:Real_Property@martin.fl.us)

With a copy to:

County Attorney's Office  
2401 SE Monterey Road  
Stuart, FL 34996  
Attn: Sarah Woods, County Attorney  
Email: [swoods@martin.fl.us](mailto:swoods@martin.fl.us)

- (b) If to the Developer:

East to West Development Corporation  
700 U.S. Highway One, Suite C  
North Palm Beach, Florida 33408  
Attn: Daniel A. Rosemond  
Chief Executive Officer  
Email: [daniel@etwdc.org](mailto:daniel@etwdc.org)

and

Stuart & Shelby Development, Inc.

[217 NE 4<sup>th</sup> Street](#)  
[Delray Beach, Florida 33444](#)  
[Attn: Charles G. Halberg, President](#)  
[Email:chuckh@stuartandshelby.com](mailto:chuckh@stuartandshelby.com)

With a copy to Developer's legal counsel:

Michael Robert Flam P.A.

20125 Ocean Key Drive  
Boca Raton, Florida 33498

Attn: Michael R. Flam, President  
Email: michael@flamlawyer.com

Each such notice shall be deemed delivered: (a) on the date electronically mailed, (b) the next business day after deposited with an overnight courier, or (c) on the date upon which the return receipt is signed or delivery is refused, as the case may be, if by registered or certified mail. The parties may change their respective contact information at any time by providing written notice to the other party.

12.2 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all together shall constitute one and the same instrument.

12.3 Assignment. The Developer may not assign or transfer this Agreement, in whole or in part, without the prior written consent of the County, except to a Florida legal entity in which Developer shall own or control a majority interest, provided that Developer's assignee shall assume all of Developer's liabilities, obligations and duties hereunder, and Developer shall not be relieved of liability in the event of any such assignment.

12.4 Attorney's Fees and Costs. In any claim, litigation or controversy arising out of or relating to this Agreement, each Party shall bear its own attorney's fees, costs and expenses, at all judicial levels including appeals.

12.5 No Conflicts of Interest. No member, official or employee of County shall have any direct or indirect interest in the subject matters of this Agreement or participate in any decision which is prohibited by Applicable Laws relating to this Agreement or the Project.

12.6 Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Florida without regard to that state's conflict of law provisions.

12.7 Entire Agreement. This Agreement, together with all exhibits attached to this Agreement ("Exhibits"), collectively constitute the entire understanding between the parties regarding the subject matters of this Agreement and totally replace all prior and contemporaneous understandings, promises, representations, warranties and inducements regarding the subject matters of this Agreement, whether oral or written, or express or implied, between the parties. In the event of any conflict between the Exhibits and this Agreement, this Agreement shall always control. No amendment to this Agreement shall be effective unless made by a supplemental contract in writing and executed by the parties.

12.8 No Joint Venture. Developer shall not be deemed to be a partner or a joint venturer with the County.

12.9 Severability. If any term or provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of this Agreement.

12.10 Successors. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

12.11 Further Assurances. The parties agree to reasonably cooperate with each other and to

execute and deliver such additional documents as may be reasonably necessary, to carry out the purposes and intent of this Agreement; provided that the foregoing shall in no way be deemed to inhibit, restrict or require the exercise of the County's police power or actions of the County when acting in a quasi-judicial capacity.

12.12 Brokers. Developer and the County each represent and warrant to the other that they have not had any direct or indirect dealings with any real estate brokers, salesmen or agents in connection with the Property and this transaction. The Developer agrees with the County that it will pay and will defend and hold the County harmless from and against any and all finder's and/or broker's commissions due or claimed to be due on account of this transaction and arising out of contracts made by or the acts of the Developer.

12.13 Force Majeure. For purposes of this Agreement, "Force Majeure" shall mean the inability of either party to commence or complete its obligations under this Agreement by the dates required in this Agreement because of delays caused by hurricanes or other inclement weather; fires; strikes, picketing, or labor/parts shortages; federal, state, or local government emergencies, decrees or orders; Acts of God; war, acts of terrorism; or other causes beyond either party's reasonable control. It is expressly understood by the parties that the events described in the preceding sentence do not provide either party with the right to terminate this Agreement under any circumstances, unless mutually agreed, in writing, by the parties. Written notice that a party is exercising its rights under this section must be promptly delivered to the other party in accordance with the notice requirements of this Agreement. Events of Force Majeure shall extend the period for the performance of the obligations under this Agreement for the period equal to the period(s) of any such delay(s).

12.14 Third Party Rights. The provisions of this Agreement are for the exclusive benefit of the parties to this Agreement. No third party including without limitation, any creditor of the County or the Developer, shall have any right or claim against the County or the Developer by reason of this Agreement or be entitled to enforce this Agreement.

12.15 Survival. All covenants, contracts, representations and warranties made in this Agreement, including without limitation those found in Sections 3-11, both inclusive, and this Section 12, shall survive (continue after) the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

12.16 Remedies Cumulative. To the extent permitted by Applicable Laws and except for those certain rights and remedies excluded in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of those rights or remedies shall not preclude the exercise by a party, at the same time or different times, of any other rights or remedies for a default by the other party.

12.17 No Waiver. Any failure by a party to require strict performance by the other party of any term or provision of this Agreement, or to exercise any right or remedy under this Agreement, shall not waive that party's right to subsequently demand strict compliance with that particular term or provision, or to exercise that right or remedy under this Agreement.

12.18 Construction. This Agreement shall be interpreted without regard to any presumption or rule requiring construction against the primary party who drafted this Agreement.

12.19 Time. Time is of the essence in the performance of this Agreement.

12.20 Jurisdiction; Venue; and Waiver of Jury Trial. EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY: (A) AGREES THAT ANY SUIT, ACTION OR OTHER



LEGAL PROCEEDING ARISING FROM OR RELATING TO THIS AGREEMENT SHALL BE BROUGHT IN THE STATE COURT SITUATED IN MARTIN COUNTY, FLORIDA; AND (B) WAIVES ANY OBJECTION WHICH IT MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY OF SUCH COURTS. EACH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ALL RIGHTS TO A TRIAL BY JURY (INCLUDING AN ADVISORY JURY) IN ALL LITIGATION RELATING TO OR ARISING FROM THIS AGREEMENT.

**Section 13. E-Verify**

13.1 Developer, as required by Section 448.095(2)(a), Florida Statutes, and any subcontractors shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The County, Developer, and any subcontractors may not enter into a contract unless each party uses the E-Verify System. Developer shall provide documentation of its compliance with this requirement upon request by the County.

13.2 If Developer enters into a contract with a subcontractor, the subcontractor must provide Developer with an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Developer shall maintain a copy of the affidavit during the term of this Agreement.

13.3 The County will not intentionally award contracts to any Developer who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions of the Immigration and Nationality Act ("INA"). The County shall consider the employment by Developer of unauthorized aliens a violation of Section 8 U.S.C. 1324(a)(3) (Section 274(e) of the INA). Developer agrees that violation by Developer shall be grounds for unilateral termination of this Agreement by the County.

*[Signature pages follow]*

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**Exhibit A**

**The Property**

# MARTIN COUNTY, STUART, FLORIDA

2401 S.E. MONTEREY ROAD PHONE NO. 772-288-5927

DWG. NAME : 17-160.DWG M.C. PROJ. NO. 17-160

SHEET NO. 1 OF 3

## EXHIBIT "A"

### SURVEYOR'S NOTES

1. THIS SKETCH AND LEGAL DESCRIPTION IS BASED ON A BOUNDARY AND TOPOGRAPHIC SURVEY BY MARTIN COUNTY DATED MARCH 1, 2013, PROJECT NUMBER 13-007, DRAWING NUMBER 13-007, CAD FILE 001 SURVEY 13-007.DWG AND THE PLAT OF NEW MONROVIA REVISED, PLAT BOOK 3, PAGE 94, MARTIN COUNTY, FLORIDA.
2. THIS LEGAL DESCRIPTION SHALL NOT BE VALID:
  - A. UNLESS PROVIDED IN ITS ENTIRETY CONSISTING OF SHEETS 1, 2, AND 3, SHEET 3 BEING A SKETCH.
  - B. WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR.
3. BEARING AND REFERENCE: BEARING IS SOUTH 66°15'25" WEST, REFERENCE IS THE SOUTHERLY RIGHT OF WAY OF COVE ROAD AND ALL OTHERS ARE RELATIVE TO SAID BEARING.
4. THE PURPOSE OF THIS SKETCH AND DESCRIPTION IS TO DESCRIBE A PARCEL OF LAND OWNED BY MARTIN COUNTY.
5. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
6. THIS IS NOT A SURVEY AND DOES NOT DEFINE OWNERSHIP OR ENCROACHMENTS.
7. PROPERTY, TRACT, AND PARCEL LINES SHOWN ARE APPROXIMATE IN NATURE AND NOT TO BE RELIED UPON FOR LAND POSITIONING OR DETERMINATIONS.
8. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
9. LEGEND: A=ARC LENGTH, Δ=DELTA, MC=MARTIN COUNTY, R=RADIUS, POB=POINT OF BEGINNING, ROW=RIGHT OF WAY

### SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE

SEAL



THOMAS M. WALKER, JR., P.S.M.  
MARTIN COUNTY SURVEYOR  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. P.S.M. 6875

NOTE: THIS IS NOT A SURVEY. THIS SHEET IS  
NOT VALID WITHOUT SHEETS 2 AND 3

DATE: 01/25/18

### SKETCH AND LEGAL DESCRIPTION

**LOTS 22-26 & A PORTION OF LOTS 27-29**

**BLOCK 7, PLAT OF NEW MONROVIA REVISED, MC, FL**

SUPERVISED BY : TMW

DRAWN BY : BDY SCALE : N/A

DATE : 12/22/17

DRAWING # 17-160

# MARTIN COUNTY, STUART, FLORIDA

2401 S.E. MONTEREY ROAD PHONE NO. 772-288-5927

DWG. NAME : 17-160.DWG | M.C. PROJ. NO. 17-160

SHEET NO. 2 OF 3

## EXHIBIT "A"

### DESCRIPTION

LOTS 22, 23, 24, 25, 26, AND A PORTION OF LOTS 27, 28, AND 29 OF BLOCK 7, NEW MONROVIA REVISED, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 3, PAGE 94 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID LOT 22; THENCE NORTH 23°49'08" WEST, ALONG THE EAST LINE OF SAID LOTS 22 THROUGH 27, A DISTANCE OF 133.56 FEET TO A POINT ON A 410.00 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY, RADIAL TO SAID POINT BEARS SOUTH 24°52'16" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°25'43", AN ARC DISTANCE OF 81.78 FEET TO THE NORTHERLY LINE OF SAID LOT 29; THENCE SOUTH 66°10'52" WEST ALONG SAID NORTHERLY LINE, A DISTANCE OF 102.44 FEET TO THE WESTERLY LINE OF SAID LOTS 22 THROUGH 29; THENCE SOUTH 23°49'08" EAST ALONG SAID WESTERLY LINE, A DISTANCE OF 200.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 22; THENCE NORTH 66°10'52" EAST, A DISTANCE OF 150.00 TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 28,333.99 SQUARE FEET (0.650 ACRES) +/-

NOTE: THIS IS NOT A SURVEY. THIS SHEET IS  
NOT VALID WITHOUT SHEETS 1 AND 3

### SKETCH AND LEGAL DESCRIPTION

**LOTS 22-26 & A PORTION OF LOTS 27-29**

**BLOCK 7, PLAT OF NEW MONROVIA REVISED, MC, FL**

SUPERVISED BY : TMW

DRAWN BY : BDY | SCALE : N/A

DATE : 12/22/17

DRAWING # 17-160

2401 S.E. MONTEREY ROAD PHONE NO. 772-288-5927

SHEET NO. 3 OF 3

S66°15'25"W SE COVE ROAD  
(SOUTHERLY ROW)



**Exhibit A-1**  
**Excluded Parcel**

# MARTIN COUNTY, STUART, FLORIDA

2401 S.E. MONTEREY ROAD PHONE NO. 772-288-5927

DWG. NAME : 17-161.DWG M.C. PROJ. NO. 17-161

SHEET NO. 1 OF 3

## EXHIBIT "A-1"

### SURVEYOR'S NOTES

1. THIS SKETCH AND LEGAL DESCRIPTION IS BASED ON A BOUNDARY AND TOPOGRAPHIC SURVEY BY MARTIN COUNTY DATED MARCH 1, 2013, PROJECT NUMBER 13-007, DRAWING NUMBER 13-007, CAD FILE 001 SURVEY 13-007.DWG AND THE PLAT OF NEW MONROVIA REVISED, PLAT BOOK 3, PAGE 94, MARTIN COUNTY, FLORIDA.
2. THIS LEGAL DESCRIPTION SHALL NOT BE VALID:
  - A. UNLESS PROVIDED IN ITS ENTIRETY CONSISTING OF SHEETS 1, 2, AND 3, SHEET 3 BEING A SKETCH.
  - B. WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR.
3. BEARING AND REFERENCE: BEARING IS SOUTH 66°15'25" WEST, REFERENCE IS THE SOUTHERLY RIGHT OF WAY OF COVE ROAD AND ALL OTHERS ARE RELATIVE TO SAID BEARING.
4. THE PURPOSE OF THIS SKETCH AND DESCRIPTION IS TO DESCRIBE A PARCEL OF LAND OWNED BY MARTIN COUNTY.
5. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
6. THIS IS NOT A SURVEY AND DOES NOT DEFINE OWNERSHIP OR ENCROACHMENTS.
7. PROPERTY, TRACT, AND PARCEL LINES SHOWN ARE APPROXIMATE IN NATURE AND NOT TO BE RELIED UPON FOR LAND POSITIONING OR DETERMINATIONS.
8. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
9. LEGEND: A=ARC LENGTH, Δ=DELTA, MC=MARTIN COUNTY, R=RADIUS, POB=POINT OF BEGINNING, ROW=RIGHT OF WAY

### SURVEYOR AND MAPPER IN RESPONSIBLE CHARGE

SEAL



THOMAS M. WALKER, JR., P.S.M.  
MARTIN COUNTY SURVEYOR  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. P.S.M. 6875

NOTE: THIS IS NOT A SURVEY. THIS SHEET IS  
NOT VALID WITHOUT SHEETS 2 AND 3

DATE: 01/25/18

### SKETCH AND LEGAL DESCRIPTION

A PORTION OF LOTS 27-29

BLOCK 7, PLAT OF NEW MONROVIA REVISED, MC, FL

SUPERVISED BY : TMW

DRAWN BY : BDY SCALE : N/A

DATE : 12/22/17

DRAWING # 17-161



# MARTIN COUNTY, STUART, FLORIDA

2401 S.E. MONTEREY ROAD PHONE NO. 772-288-5927

DWG. NAME : 17-161.DWG M.C. PROJ. NO. 17-161

SHEET NO. 2 OF 3

## EXHIBIT "A-1"

### DESCRIPTION

A PORTION OF LOTS 27, 28, AND 29 OF BLOCK 7, NEW MONROVIA REVISED, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 3, PAGE 94 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEASTERLY CORNER OF LOT 22, BLOCK 7 OF SAID PLAT OF NEW MONROVIA REVISED; THENCE NORTH 23°49'08" WEST, ALONG THE EAST LINE OF SAID LOTS 22 THROUGH 27, A DISTANCE OF 133.56 FEET TO THE POINT OF BEGINNING, A POINT ON A 410.00 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY, RADIAL TO SAID POINT BEARS SOUTH 24°52'16" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°25'43", AN ARC DISTANCE OF 81.78 FEET TO THE NORTHERLY LINE OF SAID LOT 29; THENCE NORTH 66°10'52" EAST ALONG SAID NORTHERLY LINE, A DISTANCE OF 47.52 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 29; THENCE SOUTH 23°49'08" EAST ALONG THE EASTERLY LINE OF SAID LOTS 27 THROUGH 29, A DISTANCE OF 66.39 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 1688.50 SQUARE FEET (0.039 ACRES) +/-

NOTE: THIS IS NOT A SURVEY. THIS SHEET IS  
NOT VALID WITHOUT SHEETS 1 AND 3

**SKETCH AND LEGAL DESCRIPTION**

**A PORTION OF LOTS 27-29**

**BLOCK 7, PLAT OF NEW MONROVIA REVISED, MC, FL**

SUPERVISED BY : TMW

DRAWN BY : BDY SCALE : N/A

DATE : 12/22/17

DRAWING # 17-161

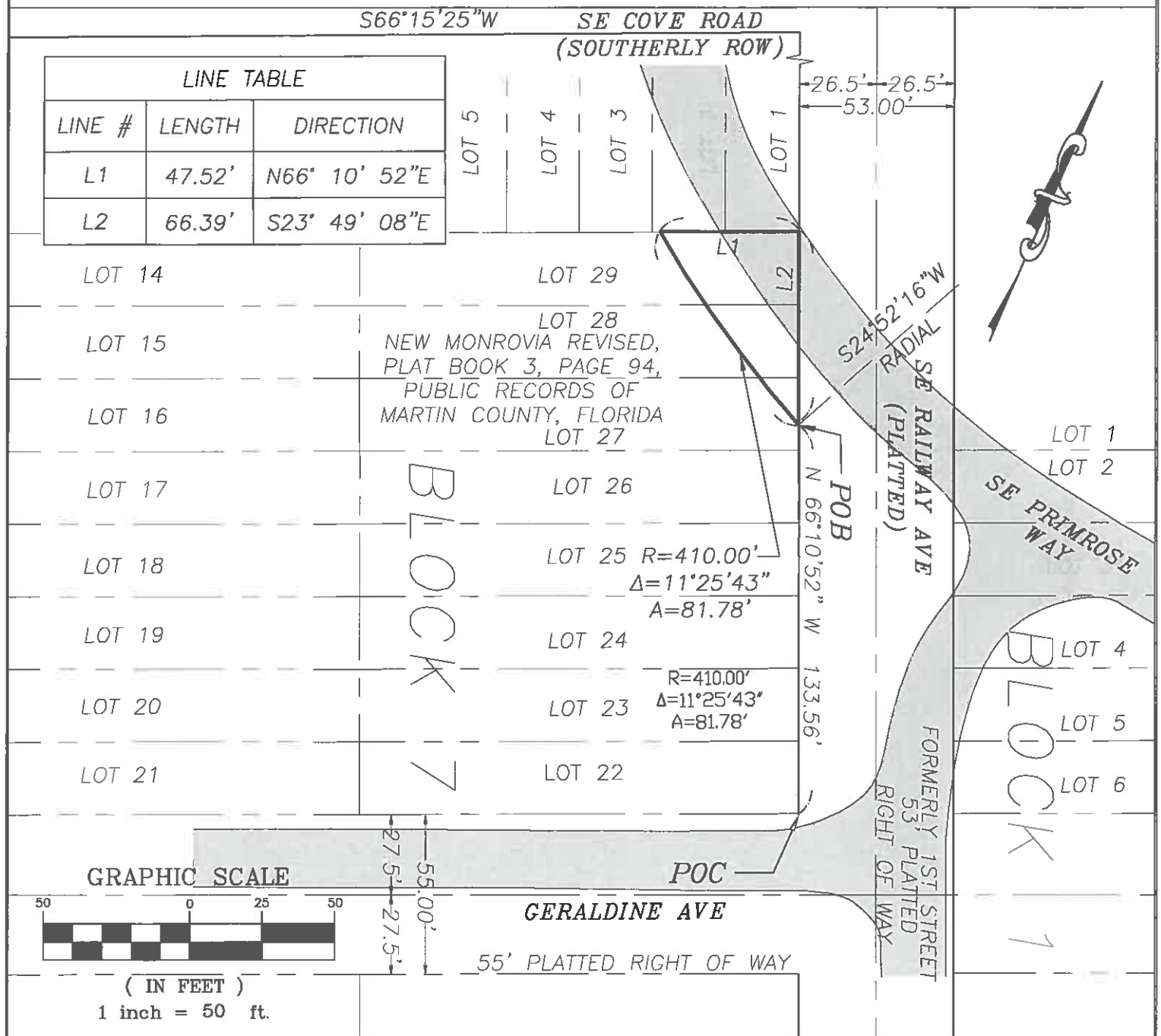
# MARTIN COUNTY, STUART, FLORIDA

2401 S.E. MONTEREY ROAD PHONE NO. 772-288-5927

DWG. NAME : 17-161.DWG M.C. PROJ. NO. 17-161

SHEET NO. 3 OF 3

## EXHIBIT "A-1"



NOTE: THIS IS NOT A SURVEY. THIS SHEET IS NOT VALID WITHOUT SHEETS 1 AND 2

THIS MAP IS INTENDED TO BE DISPLAYED AT A SCALE OF 1"=50' OR SMALLER.

### SKETCH AND LEGAL DESCRIPTION

#### A PORTION OF LOTS 27-29

BLOCK 7, PLAT OF NEW MONROVIA REVISED, MC, FL

SUPERVISED BY : TMW

DRAWN BY : BDY SCALE : 1"=50'

DATE : 12/22/17

DRAWING # 17-161

**Exhibit B**

**Pre-Development Budget**

**PORT SALERNO HOUSING  
EXHIBIT B - PRE-DEVELOPMENT PLAN**

**CONSTRUCTION**

Flamingo Model	-
Luther Model	-
Martin Model	-
Sandpiper Model	-
<hr/>	
<b>Total Construction</b>	\$ -

**DESIGN, PERMITTING, FEES**

GC Fees and Project Management	-
Permitting & Developer Fees	15,000.00
Builders' Risk & Wind, Bonding/Insurance	3,000.00
Legal	5,000.00
Environmental Assessment	5,000.00
Title Insurance	10,000.00
Closing Costs	14,000.00
Land	-
Permit	-
Impact Fees	-
Architect	27,252.00
Civil Engineer and Testing	10,000.00
Water Connection Fees	18,500.00
Strip/grub/demo/ready site	192,000.00
Interest on Construction Loan	8,500.00
Land Development	included
Utilities	included
<hr/>	
<b>Total Design, Permitting and Fees</b>	\$ 308,252.00
<hr/>	
<b>Total Project Cost</b>	\$ 308,252.00

**Note:**

Impact fees subject to any outstanding credits to the Developer for the property.

All of the above figures are approximate and subject to change, based on force majeure and other events beyond Developer's control

**Exhibit C**  
**Development Plan**

**PORT SALERNO HOUSING  
EXHIBIT C - DEVELOPMENT PLAN**

**CONSTRUCTION**

Flamingo Model	185,516.28
Luther Model	192,918.99
Martin Model	192,918.99
Sandpiper Model	192,806.82

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<b>Total Construction</b>	\$	764,161.08
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**DESIGN, PERMITTING, FEES**

GC Fees and Project Management	154,265.77
Permitting & Developer Fees	45,000.00
Builders' Risk & Wind, Bonding/Insurance	20,000.00
Legal	5,000.00
Environmental Assessment	-
Title Insurance	-
Closing Costs	-
Land	-
Permit	6,129.28
Impact Fees	54,708.48
Architect	-
Civil Engineer	-
Water Connection Fees	-
Strip/grub/demo/ready site	
Interest on Construction Loan	25,500.00
Land Development	included
Utilities	included

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<b>Total Design, Permitting and Fees</b>	\$	310,603.53
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<b>Total Project Cost</b>	\$	1,074,764.61
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**Note:**

Impact fees subject to any outstanding credits to the Developer for the property.

All of the above figures are approximate and subject to change, based on force majeure and other events beyond Developer's control

**Exhibit D**

**Development Budget**

**PORT SALERNO HOUSING  
EXHIBIT D - DEVELOPMENT BUDGET**

**CONSTRUCTION**

Flamingo Model	185,516.28
Luther Model	192,918.99
Martin Model	192,918.99
Sandpiper Model	192,806.82

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<b>Total Construction</b>	\$	764,161.08
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**DESIGN, PERMITTING, FEES**

GC Fees and Project Management	154,265.77
Permitting & Developer Fees	60,000.00
Builders' Risk & Wind, Bonding/Insurance	23,000.00
Legal	10,000.00
Environmental Assessment	5,000.00
Title Insurance	10,000.00
Closing Costs	14,000.00
Land	-
Permit	6,129.28
Impact Fees	54,708.48
Architect	27,252.00
Civil Engineer and Testing	10,000.00
Water Connection Fees	18,500.00
Strip/grub/demo/ready site	192,000.00
Interest on Construction Loan	34,000.00
Land Development	included
Utilities	included

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<b>Total Design, Permitting and Fees</b>	\$	618,855.53
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<b>Total Project Cost</b>	\$	1,383,016.61
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**Note:**

Impact fees subject to any outstanding credits to the Developer for the property.

All of the above figures are approximate and subject to change, based on force majeure and other events beyond Developer's control



**Exhibit E**

**Sources of Funds**

**Exhibit E**

**Sources of Funds**

TO BE PROVIDED IN ACCORDANCE WITH SECTION 4.4(a) OF THE PURCHASE, SALE AND DEVELOPMENT AGREEMENT FOR PORT SALERNO AFFORDABLE HOUSING, TO WHICH THIS EXHIBIT IS ATTACHED

## **Exhibit F**

### **RFP Requirements**

In order to achieve Port Salerno's development objectives and vision, the following elements should be included for each Unit:

- Architectural style complementing the neighborhood.
- Residences shall feature a front porch with parking in the rear.
- The housing units are to be sold or rented as affordable housing, as provided in the Agreement.
- The proposed construction design can consist of one story or two-story homes, town homes or apartments of CBS construction with floor plans and elevations based on the dimensions of the parcel. The overall square footage of the units will range from a minimum of 1,090 square feet to 1,720 square feet and will include a minimum of two bedrooms and two bathrooms. The Proposer(s) are responsible for every item necessary for completion of the unit, including coordination or installation of, and connection of all utilities, as agreed to with the County. The following amenities are required in every unit:
  - Minimum two (2) full baths
  - Minimum two (2) bedrooms
  - Central A/C system
  - Double kitchen sink
  - Sod and proper irrigation systems, including automated in-ground Sprinkler Systems
  - Trees and exterior plantings consistent with Florida-friendly landscaping
  - Interior to be smooth or knockdown finish with satin enamel or semi-gloss paint
  - Parking facilities to accommodate 2 cars per unit, placed in the rear of the structure
  - Mini-blinds or better
  - Stamped or solid concrete driveways
  - Three-dimensional or architectural shingle roof or better
  - Impact, quality aluminum or aluminum-clad, CGI windows
  - Any horizontal wood siding must be cedar, Hardi-plank, or equivalent
  - Interior flooring of ceramic tile (entryway, kitchen, and baths), carpet or other equivalent
  - All appliances including refrigerator, stove/oven, dishwasher, microwave and washer and dryer of better than minimum standard
  - All the above improvements may further include an equivalent alternative of equal or greater quality, as determined by Developer, based on product availability, market conditions and homebuyer preferences