

PLEASE NOTE:

A COUNCIL MEETING WILL BE HELD ON
TUESDAY, DECEMBER 11TH IN THE
COUNCIL CHAMBERS
LOCATED AT
901 SHERMAN AVENUE
STARTING AT 6:30 P.M.

**Item I-12 on the agenda is related
to MVMCC**

THE MEETING WILL ALSO BE
AVAILABLE FOR VIEWING ON
CHANNEL 27



THE CITY OF
NOVATO
CALIFORNIA

75 Rowland Way, #200
Novato, CA 94945-3232
415/899-8900
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www.novato.org

**JOINT CITY COUNCIL/
CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED
REDEVELOPMENT AGENCY MEETING**

to be held at
**NOVATO CITY HALL
COUNCIL CHAMBERS
901 SHERMAN AVENUE
DECEMBER 11, 2012
6:30 P.M.**

AGENDA

Mayor
Pat Eklund
Mayor Pro Tem
Eric Lucan
Councilmembers
Denise Athas
Madeline Kellner
Jeanne MacLeamy

City Manager
Michael S. Frank

A. CONVENE, PLEDGE OF ALLEGIANCE, AND ROLL CALL

B. CLOSED SESSION ANNOUNCEMENT

A closed session will convene upon adjournment of the open session, following the work study session. The closed session agenda is attached.

C. CEREMONIAL MATTERS/PRESENTATIONS

Proclamation: Lieutenant Keith Heiden - Retirement

**D. APPROVAL OF FINAL AGENDA, WAIVER OF THE READING
OF ORDINANCES AND NOTICES OF INTENT**

6:40 P.M. *(Time is approximate.)*

E. PUBLIC COMMENTS

This comment session is for items not on the agenda or for items listed on the Consent Calendar. See agenda cover page for information about Public Comment periods and associated protocol.

6:45 P.M. (Time is approximate.)

F. CONSENT CALENDAR

1. ADOPT CITY COUNCIL MINUTES OF OCTOBER 23, 2012

2. 2012 ANNUAL REPORT OF THE NOVATO BICYCLE/PEDESTRIAN ADVISORY COMMITTEE

Consider accepting the 2012 Annual Report from the Novato Bicycle/Pedestrian Advisory Committee (B/PAC).

Recommendation: Accept the report.

3. NOTICE OF CONSTRUCTION COMPLETION FOR THE STREET RESURFACING OR RECONSTRUCTION 2011-12

Consider accepting the work as complete and authorizing the City Manager to sign the Notice of Completion for the Street Resurfacing or Reconstruction 2011-12 Project (CIP project 12-002).

Recommendation: Authorize the City Manager to sign the Notice of Completion.

4. NOTICE OF COMPLETION – HILL GYMNASIUM INTERIOR REPAIRS

Consider authorizing the City Manager to sign the Notice of Completion for the Hill Gymnasium Interior Repairs, CIP project 12-015.

Recommendation: Authorize the City Manager to sign the Notice of Completion.

5. APPROVAL OF ACTIONS TO AUTHORIZE THE EXECUTION OF A CONTRACT WITH HELLO HOUSING FOR ADMINISTRATION OF THE CITY'S BELOW MARKET RATE HOUSING PROGRAM

Direct the City Manager to execute a contract with Hello Housing for the administration of the City's Below Market Housing program and all associated transition tasks.

Recommendation: *Staff recommends that the Council consider taking the following actions in order to implement a new staffing and revenue program for the City's housing assets and function in the City's role as Housing Successor Agency:*

1. *Approve the attached Resolution directing the City Manager to execute a contract with Hello Housing based on their submitted proposal with annual and one-time costs for the administration of the City's Below Market Rate (BMR) affordable housing program.*
2. *Direct City staff to incorporate fees as appropriate to offset the costs of the program to the greatest extent possible while still understanding the financial constraints of residents seeking to own or to sell a Below Market Rate home including the creation of a new Refinance Fee of \$550.*
3. *Transition administration of the City's BMR program from Marin Housing Authority (MHA) with sincere appreciation for MHA's partnership and professionalism over the last year:*
 - a. *Authorize staff to initiate, at an appropriate time, a 30 day contract termination notice required under the Cooperative Agreement; and,*
 - b. *Approve MHA's retention of the operating receipts from their administration of the housing program, estimated at \$17,330, that were collected when there was no compensation for their efforts; and,*
 - c. *Authorize the City Manager to execute any necessary documentation, including, but not limited to assignment agreements, necessary to transfer transactions that processed in MHA's name over the last year and to transition the administration of the Program.*
6. CITY MANAGER EMPLOYMENT AGREEMENT

Consider approving an amended employment agreement with City Manager Michael Frank.

Recommendation: *Approve agreement.*

7. AGREEMENT BETWEEN CITY AND NOVATO HISTORICAL GUILD

Consider authorizing the City Manager to execute the amended agreement with Novato Historical Guild.

Recommendation: Authorize the City Manager to execute the amended agreement with Novato Historical Guild.

8. SAFE ROUTES TO SCHOOL (SR2S) CYCLE 10
SAFETY IMPROVEMENT PROJECT - CIP 13-008 – CREATE PROJECT

Consider (1) adopting a resolution amending CIP Budget for fiscal year 2012/2013 to include Safe Routes to School (SR2S) Cycle 10 Project, CIP project No.13-008 and (2) adopting a resolution authorizing the City Manager to execute Program Supplement Agreement No.0J90 allowing the City of Novato to bill the California Department of Transportation \$441,600 for the Safe Routes to School (SR2S) Cycle 10 Project, CIP project No.13-008.

Recommendation: Amend CIP Budget 2012/2013 and authorize the City Manager to execute Program Supplement Agreement No. 0J90.

9. OLIVE AVENUE CLASS II BIKE LANES - HSIP
CIP PROJECT NO. 13-009
CREATE PROJECT AND FUND PRELIMINARY ENGINEERING

Consider adopting a resolution amending CIP Budget for fiscal year 2012/2013 to include Olive Avenue Class II Bike Lanes–HSIP Project, CIP Project No. 13-009.

Recommendation: Amend CIP Budget 2012/2013.

G. UNFINISHED AND OTHER BUSINESS

No items are listed for this section.

H. PUBLIC HEARINGS

10. PROHIBITION OF EXCAVATION
MEASURE A GROUP 5 PAVEMENT REHABILITATION, CIP 13-001

Consider holding a public hearing for the ordering of prohibition of excavation in the traveled way of the streets identified in the rehabilitation list attached (Exhibit 'A') pursuant to Chapter 15-2.54 of the City of Novato Municipal Code.

Recommendation: *Hold a public hearing and adopt the resolution that overrules all protests and prohibits excavation upon final completion of the paving in the traveled way of the streets identified in the rehabilitation list attached.*

11. PROHIBITION OF EXCAVATION - REDWOOD BOULEVARD AT
OLIVE AVENUE TRAFFIC SIGNAL (AGP-7), CIP NO. 02-011

Consider holding a public hearing for the ordering of prohibition of excavation in the traveled way at the intersection of Redwood Boulevard and Olive Avenue, for the Redwood Boulevard at Olive Avenue Traffic Signal (AGP-7), CIP No. 02-011 pursuant to Chapter 15-2.54 of the City of Novato Municipal Code.

Recommendation: *Hold a public hearing and adopt the resolution overruling all protests and prohibiting excavation upon completion of final paving.*

I. GENERAL BUSINESS

12. APPROVE LOAN AGREEMENT WITH BANK OF MARIN AND ASSOCIATED ACTIONS FOR REFINANCE OF MVMCC 1997 SENIOR BONDS

Staff recommends the Council approve the attached Resolution and actions outlined below to allow the City to refinance the Marin Valley Mobile Country Club 1997 Senior Bonds by entering into a 15-year fixed rate tax-exempt loan at 2.805% with Bank of Marin.

Recommendation: *Staff recommends the following actions to be approved by the Council:*

- **Adopt Resolution authorizing the borrowing of funds to refinance outstanding bonds related to the Marin Valley Mobile Country Club and approving related documents and actions.**

- **Approve and authorize the City Manager to execute the following agreements and instructions and to make minor modifications to the documents, following Council general direction, in order to complete the refinancing initiative. Authorize the City Manager to approve payments of the estimated expenses as outlined within this staff report.**
 - **Approve a Loan Agreement between the City and the Bank of Marin in an amount to provide for the refinancing of the 1997 Senior Bonds and to pay related financing costs.**

 - **Approve a Negative Pledge Agreement between the City and the Bank pursuant to which the City agrees not to encumber the real property constituting the Park except for Permitted Encumbrances (as defined therein).**

 - **Irrevocable Refunding Instructions given by the City to the 1997 Trustee, whereby the 1997 Trustee agrees to establish an irrevocable escrow fund to be held and invested for the purpose of paying the principal and interest on the 1997 Senior Bonds in full.**

- **Approve outstanding budget issues including: (1) Transfer of \$50,000 from the Replacement Reserve to the FY 12/13 Operating Budget for capital projects that were approved previously but not completed and (2) Reimburse the City for unpaid "Owner's Expenses" \$51,813 from funds available as part of the refinancing.**

- **Authorize the City Manager, or his designees, to designate certain "assigned" fund balances for MVMCC, as described below, in accordance with the requirements of GASB Statement No. 54.**

J. COMMISSIONS, COMMITTEES AND BOARDS (CCB's) APPOINTMENTS

This section is used by the City Council to make appointments to fill vacancy/vacancies on their Commissions, Committees and Boards.

K. COUNCILMEMBER/CITY MANAGER REPORTS

Councilmember reports on conferences and meetings, as needed (3 minutes maximum per Councilmember report).

L. WORK STUDY SESSION

See attached agenda.

M. ADJOURNMENT

Council will convene a work session immediately following Adjournment of its Regular Meeting. The work session will be followed by a closed session. Meeting agenda follows.

AFFIDAVIT OF POSTING

I, Sheri Hartz, certify that on December 6, 2012, I caused to be posted the agenda of the open session of the December 11, 2012 joint meeting of the City Council and City Council as Successor Agency to Dissolved Redevelopment Agency of the City of Novato, California, on the City Community Service Board in the Police Department and on the City's website at www.novato.org.

/Sheri Hartz/

Sheri Hartz, City Clerk



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**JOINT CITY COUNCIL/
CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED
REDEVELOPMENT AGENCY WORK STUDY SESSION**

to be held at
**NOVATO CITY HALL
COUNCIL CHAMBERS
901 SHERMAN AVENUE
DECEMBER 11, 2012**

Immediately following Regular Meeting

A G E N D A

Mayor
Pat Eklund
Mayor Pro Tem
Eric Lucan
Councilmembers
Denise Athas
Madeline Kellner
Jeanne MacLeamy

City Manager
Michael S. Frank

1. PUBLIC COMMENTS

See agenda cover page for information about Public Comment periods and associated protocol.

2. FISCAL SUSTAINABILITY WORK SESSION #4 – REVENUES

Receive presentations regarding City revenues as a continuation of the City's fiscal sustainability process and provide feedback to staff.

3. ADJOURNMENT

Council will convene a closed session immediately following Adjournment of this work session. Closed session agenda follows.

AFFIDAVIT OF POSTING

I, Sheri Hartz, certify that on December 6, 2012, I caused to be posted the agenda of the December 11, 2012 Work Session of the City Council and City Council as Successor Agency to Dissolved Redevelopment Agency of the City of Novato, California, on the City Community Service Board in the Police Department and on the City's website at www.cityofnovato.org

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**JOINT CITY COUNCIL/
 CITY COUNCIL AS SUCCESSOR AGENCY TO DISSOLVED
 REDEVELOPMENT AGENCY MEETING**

**CLOSED SESSION
 to be held at
 NOVATO CITY HALL
 COUNCIL CHAMBERS**

**901 SHERMAN AVENUE
 DECEMBER 11, 2012**

(Closed session will convene upon adjournment of the open session.)

CLOSED SESSION AGENDA

Mayor
 Pat Eklund
 Mayor Pro Tem
 Eric Lucan
 Councilmembers
 Denise Athas
 Madeline Kellner
 Jeanne MacLeamy

City Manager
 Michael S. Frank

A. CALL TO ORDER

1. Public Comment
2. Recess into Closed Session

B. CLOSED SESSION

1. CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property: 315 Bolling Circle, Novato, California

Agency: Michael Frank, City Manager
 Negotiator: Cathy Capriola, Assistant City Manager
 Veronica Nebb, Assistant City Attorney

Negotiating Party: Harry Thorgersen

Under negotiation: Price and Terms of Sale or Transfer

2. CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (a)

CONFERENCE WITH LEGAL COUNSEL –
 EXISTING LITIGATION (Subdivision (a) of Section 54956.9)

Name of Case: Johanna L. Collins, also known as
 Johanna L. Longfellow v. Park Acquisition Corporation of Marin Valley Mobile Country Club, City of Novato, Mark Pierce and Does 1 through 30

AFFIDAVIT OF POSTING

I, Sheri Hartz, certify that on December 6, 2012, caused to be posted the agendas of the closed and open sessions of the December 11, 2012 joint meeting of the City Council and City Council as Successor Agency to Dissolved Redevelopment Agency of the City of Novato, California, on the City Community Service Board in the Police Department and on the City's website at www.cityofnovato.org.

/Sheri Hartz/ _____
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STAFF REPORT

MEETING

DATE: December 11, 2012

TO: City Council

FROM: Cathy Capriola, Assistant City Manager
Veronica Nebb, Assistant City Attorney
Brian Cochran, Finance Manager

SUBJECT: **APPROVE LOAN AGREEMENT WITH BANK OF MARIN AND ASSOCIATED ACTIONS FOR REFINANCE OF MVMCC 1997 SENIOR BONDS**

REQUEST

Staff recommends the Council approve the attached Resolution and actions outlined below to allow the City to refinance the Marin Valley Mobile Country Club 1997 Senior Bonds by entering into a 15-year fixed rate tax-exempt loan at 2.805% with Bank of Marin.

RECOMMENDATION

Staff recommends the following actions to be approved by the Council:

- Adopt Resolution authorizing the borrowing of funds to refinance outstanding bonds related to the Marin Valley Mobile Country Club and approving related documents and actions.
- Approve and authorize the City Manager to execute the following agreements and instructions and to make minor modifications to the documents, following Council general direction, in order to complete the refinancing initiative. Authorize the City Manager to approve payments of the estimated expenses as outlined within this staff report.
 - Approve a Loan Agreement between the City and the Bank of Marin in an amount to provide for the refinancing of the 1997 Senior Bonds and to pay related financing costs.
 - Approve a Negative Pledge Agreement between the City and the Bank pursuant to which the City agrees not to encumber the real property constituting the Park except for Permitted Encumbrances (as defined therein).
 - Irrevocable Refunding Instructions given by the City to the 1997 Trustee, whereby the 1997 Trustee agrees to establish an irrevocable escrow fund to be held and

Novato City Council Agenda Staff Report Date: _____ File No. _____

invested for the purpose of paying the principal and interest on the 1997 Senior Bonds in full.

- Approve outstanding budget issues including: (1) Transfer of \$50,000 from the Replacement Reserve to the FY 12/13 Operating Budget for capital projects that were approved previously but not completed and (2) Reimburse the City for unpaid “Owner’s Expenses” \$51,813 from funds available as part of the refinancing.
- Authorize the City Manager, or his designees, to designate certain “assigned” fund balances for MVMCC, as described below, in accordance with the requirements of GASB Statement No. 54.

DISCUSSION

Marin Valley Mobile Country Club, a 315 unit mobile home park, has been under local public ownership since 1997 and is now directly owned by the City of Novato. At the October 30th Council meeting, the City Council gave staff direction to proceed with refinancing the outstanding MVMCC bonds with a loan from Bank of Marin. Through a Request for Proposal process, Bank of Marin’s submittal met the City’s parameters with a strong proposal of 2.805% fixed term interest rate and offered very attractive terms to the City for the refinancing of the 1997 Bonds. The key features of Bank of Marin’s proposal are outlined below.

- 2.805% interest rate fixed for the 15-year term of the financing (or after 12/31/12, 2.54% over the 10-year Treasury);
- Prepayment flexibility beginning in Year 1 at a premium of 5%, declining to 1% in Year 5, with the ability to prepay up to 20% of principal each year without penalty;
- Security consisting of a pledge of MVMCC revenues and a negative pledge on the Park property (no Deed of Trust required);
- Annual Debt Service Coverage requirement of 2.00 times debt service;
- Ability to issue parity debt secured by MVMCC revenues, subject to certain customary limitations;
 - 2.00 times coverage on existing and proposed debt;
 - Total loan to value ratio not to exceed 65%;
- No requirement to maintain a Debt Service Reserve Fund or a Cashtrap Account, both of which are currently required under the 1997 Bond indenture; and,
- Low refinancing costs -- loan fee of \$21,250 (0.25%) & transaction costs estimated \$12,500.

PFM and City staff view both the interest rate and the primary business terms of the proposed Bank of Marin loan as very attractive to the City. Even after taking into account the loss of investment income from the guaranteed investment contracts, there is still positive savings and the City has the ability to build and control reserves for long term capital and infrastructure investments.

Private Placement (Tax-Exempt) Cost Summary

Original Estimate & Bank of Marin Proposal 15 Years from 2014-2028	Current Bonds	Bank of Marin Proposal October 30, 2012
Bond Summary		
Total Debt Service	\$15,180,455	\$10,015,566
Average Annual Debt Service	\$952,000	\$677,193
Borrowing Cost	5.98%	2.805%
Refunding Results (As Compared to Current Bonds)		
Gross Savings	n/a	\$5,713,641
Average Annual Cashflow Savings	n/a	\$365,035
Present Value Savings	n/a	\$2,251,889

Updates

Since the October 30th meeting, the City and Bank of Marin have prepared and completed the necessary research and document preparation in order to bring forward the proper loan documents for Council's consideration. The tentative schedule is to fund the Bank of Marin loan on December 19. The funds will be placed in a required 30 day escrow. The bonds will be repaid on January 18th, including a required prepayment to Assured Guaranty and all related transaction expenses.

Below is a list of the implementation documents that are attached and a brief description of their contents.

1. Loan Agreement between the City and the Bank, whereby the Bank agrees to make a loan (the "Loan") to the City in an amount which is sufficient, together with certain other funds of the City, to provide for the refinancing of the 1997 Senior Bonds and to pay related financing costs, and the City agrees to repay the Loan from the revenues of the Park. The final loan amount will depend on fund balances in January when the bonds are repaid. The maximum principal amount of the Loan shall not exceed \$8,500,000.
2. Negative Pledge Agreement between the City and the Bank pursuant to which the City agrees not to encumber the real property constituting the Park except for Permitted Encumbrances (as defined therein).
3. Irrevocable Refunding Instructions given by the City to the 1997 Trustee, whereby the 1997 Trustee agrees to establish an irrevocable escrow fund to be held and invested for the purpose of paying the principal and interest on the 1997 Senior Bonds in full.

FISCAL IMPACT

The refinancing will have fiscal impacts which have been outlined above. Overall, the new loan will create cost savings due to the lower interest rate. Below is an estimate of the costs of the refinancing of the bonds and the new loan with Bank of Marin and the estimated cost to pay off Assured Guaranty.

Transaction Costs for Refinance	Estimate 10/30/2012	Estimate 12/11/2012
Public Financial Management, Inc. (PFM)	\$ 38,500	\$ 38,500
Jones Hall	50,000	50,000
Walter & Pistole – transaction & update DA/MA	8,000	8,000
City Staff	5,000	5,000
Appraisal	10,000	6,000
Bank of Marin loan fee of (0.25%)	21,250	21,250
Bank of Marin misc costs (flood cert., etc.)		300
Bank of Marin transaction costs	12,500	12,500
Bank of Marin Environmental Questionnaire	2,000	2,000
Old Republic - Escrow and Recording		2,000
US Bank - Trustee and Escrow Agent	2,000	2,000
Verification Agent	1,500	1,500
TOTAL	\$ 150,750	\$ 149,050
Assured Guaranty Pre-Pay Bond Insurance	\$ 300,975	

Other Time Sensitive Outstanding Budget Issues

There are two other outstanding budget issues that should be addressed at this time – two capital budget changes for FY 12/13 and outstanding reimbursements owed to the City for “Owner’s Expense”.

Kitchen Remodel and Completion of Window Shades for the East Wall Project (Capital Budget Corrections for FY 12/13) – In FY 11/12, the MVMCC approved budget had \$30,000 approved for a kitchen remodel of the Clubhouse. However the work was not initiated during the FY 11/12 and the funding was not reprogrammed for the FY 12/13. As outlined in the bond documents, any unused annual capital budget is swept into the “Replacement Reserve” bucket at the end of the year which is what occurred with the unused \$30,000. The PAC is ready to proceed with the kitchen remodel now and estimates that it will cost approximately \$38,000. In addition, in FY 11/12, the MVMCC approved budget had \$120,000 approved for a seismic upgrades to the East Wall of the Clubhouse, plus new doors and windows and window coverings. All of the construction was completed in FY 11/12 for \$110,546, except for the installation of window coverings. The estimate for window coverings is \$6,000 but requires funds to be budgeted for this current fiscal year. PAC and Frei Real Estate are requesting funds to complete these projects in the FY 12/13 budget year. Staff recommends that these projects be bundled (\$44,000) and a \$6,000 contingency be added in case needed. Staff has received a verbal concurrence from Assured Guaranty for this change, but is waiting for written confirmation.

Recommendation – Approve transfer of \$50,000 from the Capital Improvement Budget Reserve to the FY 12/13 Operating Budget to be added to the capital expenses. By authorizing this now, the management company can move forward with work in early 2013.

Outstanding Reimbursements for “Owner’s Expense” – The bond documents outline \$25,000 per year for “Owner’s Expense” to cover the routine costs associated with City staff’s time to facilitate and oversee the management of the Park and interact as needed with the PAC and Frei Real Estate Services. This amount has been interpreted to mean the general administrative costs for the Park’s routine business. Generally, the City’s expenses have been less than the \$25,000 per year, except when there are special projects such as the negotiation of the Delegation Agreement and Management Agreement, ownership discussions, refinance or property condition analyses. These special projects can sometimes be partially funded within the \$25,000, however at times, it has required additional funds for reimbursement to the City.

In reviewing the history, staff discovered that there were a number of years where no reimbursement for City costs were brought forward or only partial reimbursement provided. As the chart shows, there are a number of years, when the Owner’s Expense was well below the \$25,000 authorized. Attachment A is a chart that summarizes the last seven years and shows an outstanding reimbursement amount of \$82,557 that is due to the City.

Recommendation – Reimburse the City \$82,557 as part of the refinancing funds for non-reimbursed “Owner’s Expenses”.

Use of Funds

With the refinancing, there are current funds in MVMCC accounts that will be repurposed to (1) hold as reserves, (2) pay for expenses, (3) pay down the new loan and (4) other miscellaneous items. Attachment B has a summary of the sources and uses of funds

ALTERNATIVES

1. Choose to not to refinance, continue to pay the 1997 Senior bonds and pay Assured Guaranty \$150,000 one-time payment.

ATTACHMENTS

1. Attachment A – Reimbursement of Owner’s Expenses
2. Attachment B -- Uses and Sources of Funding
3. Council Resolution
4. Loan Agreement
5. Negative Pledge Agreement
6. Irrevocable Refunding Instructions

ATTACHMENT A

MVMCC Owner's Expense Billing History FY 06-12

	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	TOTAL
Annual Set-Aside for Owner's Expenses	25,000	25,000	25,000	25,000	25,000	25,000	25,000	175,000
Routine Business								
City Staff - Regular Business	7,391	6,037	7,382	4,325	10,226	10,763	6,132	52,255
City Legal - Regular Business	1,677	9,759	11,999	5,511	6,274	4,832	4,390	44,442
SubTotal	9,068	15,796	19,381	9,835	16,499	15,595	10,522	96,697
Amount Reimbursed Previously	-	-	19,381	9,835	13,736	15,595	10,522	69,069
Amount Still Owed to the City	9,068	15,796	-	-	2,763	-	-	27,628
Special Projects								
Property Condition Report / Infrastructure	3,116	21,523				2,876	10,705	38,219
Delegation Agreement						36,622	25,388	62,010
Refinancing								
NFA Ownership Transfer to City						71,336		71,336
Ownership Projects			8,800					8,800
Other			8,700			105		8,805
SubTotal	3,116	21,523	17,500	-	-	110,939	36,094	189,170
Amount Reimbursed Previously	-	21,523	17,500	-	-	80,741	14,478	134,242
Amount Still Owed to the City	3,116	-	-	-	-	30,198	21,615	54,929
TOTAL OWED TO CITY	12,184	15,796	-	-	2,763	30,198	21,615	82,557

Notes:

"Regular Business" includes financial analysis and support; staff oversight of Park and interaction with PAC & Frei; support of Council meetings

TOTAL OWED TO CITY FOR PAST NON-REIMBURSED OWNER COSTS = \$ 82,557

ATTACHMENT B

SOURCES AND USES OF FUNDS FROM MVMCC ACCOUNTS

SOURCES OF FUND

November 20, 2012 MVMCC Trustee Statement Analysis

<u>Acct #</u>	<u>Acct Name</u>	<u>11/30/2012</u> <u>Balance</u>
95436059	In Lieu of Tax Account	-
95436060	Revenue Fund	-
95436061	Interest Fund	94,510
95436062	Principal Fund	64,170
95436063	Escrow Insurance Fund	17,007
95436064	Replacement Reserve	1,286,542
95436065	Debt Service Reserve Fund	1,000,000
95436066	Expense Fund	17,710
95436067	Cash Trap Account	1,820,469
95436068	Arbitrage Rebate Account	7,500
95436072	Property Manager Account	583
95436073	Owner Deferred Costs	-
95436074	Deferred Costs - Consultant	12
95436075	PAC Account	6,621
95436076	Owner Account	2,652
95436077	Utility Expense Account	155,945
95436078	Operating Expense Fund	289,910
	TOTAL	4,763,630

USES OF AVAILABLE FUNDS DUE TO REFINANCING

Debt Service Reserve for Refunding Bonds	N/A
Bank of Marin Cash Flow Holding Account	180,000
Capital Improvement Budget Reserve - "Assigned Fund"	1,250,000
Operating Reserve - "Assigned Fund"	250,000
Long Term Infrastructure Reserve - "Assigned Fund"	500,000
Transfer to FY 12/13 Operating Budget for Kitchen Remodel/Window Coverings	50,000
Transaction Costs -- Estimated	150,000
Assured Guaranty Payment -- Estimated	300,000
Owner's Expenses - Previous FY Non-Reimbursed	82,557
Amount of Cash to Contribute to Refunding	2,001,073
TOTAL	4,763,630

FINAL LOAN AMOUNT

Current Principal of 1997 Outstanding Senior Bonds - MVMCC	9,894,194
Cash Contribution to Refunding to Pay Down Bonds	2,001,073
Final New Loan with Bank of Marin - Estimated	7,893,121

CITY COUNCIL OF THE CITY OF NOVATO

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
 NOVATO AUTHORIZING THE BORROWING OF FUNDS TO
 REFINANCE OUTSTANDING BONDS RELATING TO THE
 MARIN VALLEY MOBILE COUNTY CLUB PARK, AND
 APPROVING RELATED DOCUMENTS AND ACTIONS

WHEREAS, the City currently owns and operates a mobile home park known as the Marin Valley Mobile Country Club Park (the "Park"); and

WHEREAS, the Park was initially acquired by the Novato Financing Authority (the "NFA") through the issuance, by the California Local Government Finance Authority ("CLGFA"), of its Senior Revenue Bonds, Series 1997A (Marin Valley Mobile Country Club Park Acquisition Project) (the "1997 Senior Bonds") and its Subordinate Revenue Bonds, Series 1997B (Marin Valley Mobile Country Club Park Acquisition Project) (the "1997 Subordinate Bonds") pursuant to a Trust Indenture dated as of March 1, 1997 (the "1997 Indenture") between the CLGFA and First Trust of California, National Association, as succeeded by U.S. Bank National Association, as trustee (the "1997 Trustee"); and

WHEREAS, the proceeds of the 1997 Senior Bonds and the 1997 Subordinate Bonds were loaned by the CLGFA to the NFA pursuant to a Loan Agreement dated as of March 1, 1997 (the "1997 Loan Agreement") among the CLGFA, the NFA and the Park Acquisition Corporation of the Marin Valley Mobile Country Club, and the NFA used the proceeds of such loan to, among other things, to acquire the Park and make certain improvements thereto; and

WHEREAS, the Subordinate Bonds have previously been paid, in full, and no 1997 Subordinate Bonds remain outstanding; and

WHEREAS, on March 11, 2011, the NFA transferred title in the Park to the City, and the City now has fee simple title in the property comprising the Park; and

WHEREAS, in connection with such transfer, the City assumed all of the NFA's obligations under the 1997 Loan Agreement and the other Mortgage Loan Documents (as such term is defined in the 1997 Indenture); and

WHEREAS, the City now desires to refinance its obligations under the 1997 Loan Agreement and to discharge its obligations under all of the Mortgage Loan Documents, as such obligations relate to the 1997 Senior Bonds, and, to that end, is entering into this Loan Agreement with the intent of applying the proceeds provided hereunder, together with certain other funds of the City, to establish an irrevocable escrow with the 1997 Trustee to redeem all of the outstanding 1997 Senior Bonds; and

WHEREAS, the City is authorized to borrow amounts and enter into a loan agreement (the “Loan Agreement”) with the Bank of Marin (the “Bank”) evidencing the loan made thereunder, pursuant to the provisions of Article 10, Chapter 3, Part 1, Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code; and

WHEREAS, the City Council wishes at this time to approve proceedings to refinance the 1997 Senior Bonds, the 1997 Loan Agreement and the obligations relating thereto and to approve related documents and actions;

NOW, THEREFORE, be it is resolved by the City Council of the City of Novato, as follows:

Section 1. Approval of Refinancing Agreements. The City Council hereby approves borrowing funds from the Bank for the purpose of refinancing the 1997 Senior bonds and the 1997 Loan Agreement, in an amount which is sufficient to provide funds for that purpose. To that end, the City Council hereby approves each of the following agreements in substantially the respective forms on file with the City Clerk together with any changes therein or additions thereto deemed advisable by the City Manager or the Assistant City Manager (each, an “Authorized Officer”), and the execution thereof by an Authorized Officer shall be conclusive evidence of such approval:

- Loan Agreement between the City and the Bank, whereby the Bank agrees to make a loan (the “Loan”) to the City in an amount which is sufficient, together with certain other funds of the City, to provide for the refinancing of the 1997 Senior Bonds and to pay related financing costs, and the City agrees to repay the Loan from the revenues of the Park. The Loan shall bear interest at such rate of interest, and shall be payable as to principal and interest at such times, as provided in the Loan Agreement. The maximum principal amount of the Loan shall not exceed \$8,500,000.
- Negative Pledge Agreement between the City and the Bank pursuant to which the City agrees not to encumber the real property constituting the Park except for Permitted Encumbrances (as defined therein).
- Irrevocable Refunding Instructions given by the City to the 1997 Trustee, whereby the 1997 Trustee agrees to establish an irrevocable escrow fund to be held and invested for the purpose of paying the principal and interest on the 1997 Senior Bonds in full.

An Authorized Officer is authorized and directed for and in the name and on behalf of the City to execute and the City Clerk is hereby authorized and directed to attest the final form of each of the foregoing documents.

Section 2. Authorization to Send Redemption Notice for 1997 Senior Bonds. The City Council hereby authorizes and directs an Authorized Officer to give written instructions to the 1997 Trustee to give a notice of the redemption of the 1997 Senior Bonds, such notice to be given on the date of the funding of the Loan. Such instructions shall indemnify the 1997 Trustee

against any claims that may arise from giving such redemption notice, in the event the Loan does not close for any reason.

Section 3. Engagement of Professional Services. The City Council hereby appoints the firm of Jones Hall, A Professional Law Corporation, to act as bond counsel to the City, and the firm of Public Financial Management, Inc., as financial advisor in connection with the financing described in this Resolution. An Authorized Officer is authorized and directed to execute an agreement with each of such firms in the respective forms on file with the City Clerk. As provided in such agreements, compensation payable to bond counsel and the financial advisor for their work relating to the Loan is contingent upon the successful completion of the financing proceedings, and shall be paid from a portion of the proceeds of the Loan.

Section 4. Official Actions. The City Manager, the Assistant city Manager, the City Clerk and all other officers of the City are each authorized and directed in the name and on behalf of the City to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants, escrow instructions and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Additionally, the City Manager or his designees are hereby authorized to "assign" certain fund balances relating to the Park pursuant to the requirements of GASB Statement No. 54.

Whenever in this Resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 5. Small Issuer Exemption from Bank Non-Deductibility Restrictions. The City hereby designates the Loan as a "qualified tax-exempt obligation" for purposes of paragraph (3) of Section 265(b) of the Internal Revenue Code of 1986 (the "Tax Code") and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Tax Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in Section 141 of the Tax Code, except qualified 501(c)(3) bonds as defined in Section 145 of the Tax Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), including the loan repayments, has been or will be issued by the City, including all subordinate entities of the City, during the calendar year 2012.

Section 6. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of the City of Novato, Marin County, California, at a meeting thereof, held on the ____ day of _____, by the following vote, to wit:

AYES: Councilmembers

NOES: Councilmembers

ABSTAIN: Councilmembers

ABSENT: Councilmembers

Sheri Hartz, City Clerk

Approved as to form:

Bond Counsel

LOAN AGREEMENT

This LOAN AGREEMENT (this "Loan Agreement"), dated as of December 1, 2012, is between the BANK OF MARIN, a banking corporation duly organized and existing under the laws of the State of California, as lender (the "Bank"), and the CITY OF NOVATO, a municipal corporation duly organized and existing under the laws of the State of California, as borrower (the "City").

BACKGROUND:

1. The City currently owns and operates a mobile home park known as the Marin Valley Mobile Country Club Park (the "Park").

2. The Park was initially acquired by the Novato Financing Authority (the "NFA") through the issuance, by the California Local Government Finance Authority ("CLGFA"), of its Senior Revenue Bonds, Series 1997A (Marin Valley Mobile Country Club Park Acquisition Project) (the "1997 Senior Bonds") and its Subordinate Revenue Bonds, Series 1997B (Marin Valley Mobile Country Club Park Acquisition Project) (the "1997 Subordinate Bonds" and, together with the 1997 Senior Bonds, the "1997 Bonds") pursuant to a Trust Indenture dated as of March 1, 1997 (the "1997 Indenture") between the CLGFA and First Trust of California, National Association, as succeeded by U.S. Bank National Association, as trustee (the "1997 Trustee").

3. The proceeds of the 1997 Senior Bonds and the 1997 Subordinate Bonds were loaned by the CLGFA to the NFA pursuant to a Loan Agreement dated as of March 1, 1997 (the "1997 Loan Agreement") among the CLGFA, the NFA and the Park Acquisition Corporation of the Marin Valley Mobile Country Club, and the NFA used the proceeds of such loan to, among other things, to acquire the Park and make certain improvements thereto.

4. The 1997 Subordinate Bonds have previously been paid in full, and no 1997 Subordinate Bonds remain outstanding.

5. On March 11, 2011, the NFA transferred title in the Park to the City, and the City now has fee simple title in the property comprising the Park.

6. In connection with such transfer, the City assumed all of the NFA's obligations under the 1997 Loan Agreement and the other Mortgage Loan Documents (as such term is defined in the 1997 Indenture).

7. The City now desires to refinance its obligations under the 1997 Loan Agreement and to discharge its obligations under all of the Mortgage Loan Documents, as such obligations relate to the 1997 Senior Bonds, and, to that end, is entering into this Loan Agreement with the intent of applying the proceeds provided hereunder, together with certain other funds of the City, to establish an irrevocable escrow with the 1997 Trustee to redeem all of the outstanding 1997 Senior Bonds on or about January 22, 2013.

8. The City is authorized to enter into this Loan Agreement and to borrow amounts hereunder for the purpose of refunding and redeeming the 1997 Senior Bonds and to discharge its obligations under the 1997 Loan Agreement and the Mortgage Loan Documents, as such obligations relate to the 1997 Senior Bonds.

A G R E E M E N T :

In consideration of the foregoing and the material covenants hereinafter contained, the parties hereto covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS AND APPENDIX

SECTION 1.1. *Definitions.* All terms defined in this Section 1.1 have the meanings herein specified for all purposes of this Loan Agreement.

"Act" means Articles 10 and 11 (commencing with Section 53570) of Chapter 3, Part 1, Division 2, Title 5 of the California Government Code.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Applicable Law" means (i) all applicable common law and principles of equity and (ii) all applicable provisions of all (A) constitutions, statutes, rules, regulations, directives, codes, ordinances and orders of all Governmental Authorities, and including without limitation all Environmental Laws and, (B) Governmental Approvals, and (C) orders, decisions, judgments and decrees of all courts (whether at law or in equity) and arbitrators.

"Applicable Usury Laws" means the state or federal laws that are applicable to the right or claim of a lender to contract for, charge, collect, reserve, or receive interest pursuant to or in connection with the payment obligations of the City under this Loan Agreement, either pursuant to the choice of laws provision in this Loan Agreement or under the laws of any other jurisdiction whose usury laws are mandatorily applicable notwithstanding the choice of laws provision in this Loan Agreement, each as from time to time in effect and applicable to such obligations.

"Authorized Officer" means the chief executive officer, president, chief financial officer, treasurer, debt manager, or controller of the Bank authorized to perform the specific acts or duties to be performed by resolution duly adopted by the Bank; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Officer pursuant to the terms of this Loan Agreement, such certificate or statement shall be executed only by an Authorized Officer in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement. Any document or certificate hereunder that is

executed by an Authorized Officer shall be conclusively presumed to have been authorized by all necessary action by the Bank.

"Bank" means the Bank of Marin, a banking corporation duly organized and existing under the laws of the State of California.

"Bond Counsel" means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income for purposes of federal income taxation under Section 103 of the Tax Code.

"Business Day" means a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State of California are closed.

"Certificate of the City" means a written certificate or other document that has been executed by a City Representative.

"City" means the City of Novato, a municipal corporation organized and existing under the laws of the State of California.

"City of Novato - MVMCC Account" means the account (including any subaccounts therein) established and held by the City at the Bank with respect to the Park for the initial receipt and deposit of Gross Revenues.

"City Representative" means the City Manager, Assistant City Manager, Finance Manager or any other person authorized by resolution of the City Council of the City to act on behalf of the City under or with respect to this Loan Agreement.

"CLFGA" means the California Local Government Finance Authority, a joint exercise of powers agency duly organized under the laws of the State of California.

"Closing Date" means December [19], 2012, being the date of execution and delivery of this Loan Agreement.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person whether through the ability to exercise voting power, by contract or otherwise. "Controlled" shall have meaning correlative thereto.

"Default Rate" means, as of any date, a rate of interest equal to the interest rate then in effect with respect to Loan plus 5.0%.

"Determination of Taxability" means a determination that the interest payable on the Loan does not qualify as interest which is excludable from gross income of the recipient thereof for federal income tax purposes under Section 103 of the Tax Code ("Exempt Interest") for any reason, which determination shall be deemed to have been made upon the first to occur of any of the following:

- (a) the date on which (i) the Internal Revenue Service issues a proposed or final determination of taxability, a Notice of Proposed Issue (IRS Form 5701-TEB), a notice of deficiency or similar notice, or any other notice,

determination or decision, in each case, to the effect that the interest payable on the Loan or any portion thereof does not qualify as Exempt Interest, or (ii) a court of competent jurisdiction has rendered any final ruling or decision to the effect that the interest payable on the Loan or any portion thereof does not qualify as Exempt Interest;

(b) the date when the City files any statement, supplemental statement, or other tax schedule, return or document, which is in any respect inconsistent with interest payable on the Loan or any portion thereof continuing to qualify as Exempt Interest;

(c) if upon sale, lease or other deliberate action within the meaning of Treas. Reg. § 1.141-2(d), the failure to receive an unqualified opinion of Bond Counsel to the effect that such action will not cause interest on the Loan to become includable in the gross income of the recipient for federal income tax purposes; or

(d) (i) the circumstances relating to the City or the Park or any portion thereof have occurred or changed, or any federal tax law or regulation, or any public or private final ruling, technical advice memorandum or any other written communication by the Internal Revenue Service is adopted or issued, or any final ruling or decision of a court of competent jurisdiction is rendered or any other set of circumstances has occurred, in any such case, which may adversely affect the excludability of the Exempt Interest from the gross income of the recipient for federal income tax purposes; and thereafter (ii) Bond Counsel is notified by the Bank in writing, with a copy to the City, or by the City, with a copy to the Bank, that Bond Counsel is requested to deliver an updated approving opinion relating to the treatment of the interest on of the Loan as Exempt Interest in form and substance acceptable to the Bank in its sole discretion ("Approving Opinion") during the 45-day period after receipt of the request and is assured as to the payment by the City of its fees and expenses for such services; and (iii) within 45 days after such notice has been received by Bond Counsel, either (A) the Bank and the City have received written communication from Bond Counsel to the effect that, based upon an analysis of the facts and applicable law, it is unable to render an updated Approving Opinion, or (B) Bond Counsel has not delivered an Approving Opinion.

"Environmental Claim" shall mean any and all administrative, regulatory or judicial actions, suits, demand letters, claims, liens, notices of noncompliance or violation, investigations or proceedings relating in any way to any Environmental Law ("claims") or any permit issued under any such Environmental Law, including without limitation (a) any and all claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any applicable Environmental Law, and (b) any and all claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment.

"Environmental Law(s)" means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions

relating to air, water or land pollution, wetlands or the protection of the environment or to emissions, discharges or releases of Hazardous Materials into the environment, including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials or the clean-up or other remediation thereof.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the City directly or indirectly resulting from or based upon (a) violation of any Environmental Law with respect to the Park, (b) the generation, use, handling, presence, transportation, storage, treatment or disposal of any Hazardous Materials with respect to the Park, (c) exposure to any Hazardous Materials with respect to the Park, (d) the release or threatened release of any Hazardous Materials with respect to the Park into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and all rules and regulations from time to time promulgated thereunder, or any successor statute.

"Excess Investment Earnings" means an amount required to be rebated to the United States of America under Section 148(f) of the Tax Code due to investment of gross proceeds of the Loan at a yield in excess of the yield on the Loan.

"Event of Default" means an event of default as described in Section 5.1.

"Federal Securities" means: (a) any direct non-callable general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

"Fiscal Year" means the twelve-month period beginning on July 1 of any year and ending on June 30 of the next succeeding year, or any other twelve-month period selected by the City as its fiscal year.

"Governmental Authority" means any national, supra-national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, administrative, public or statutory instrumentality, authority, body, agency, department, commission, bureau, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other Person with authority to bind a party at law.

"Gross Revenues" means all amounts received by the City with respect to the Park, including, without limitation, rents, late fees, other operating revenues, non-

operating revenues (including investment earnings) derived from the Park, and insurance and condemnation proceeds.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, contaminants, chemicals, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Independent Accountant" means any independent certified public accountant or firm of independent certified public accountants appointed and paid by the City, and who, or each of whom (a) is in fact independent and not under domination of the City; (b) does not have any substantial interest, direct or indirect, with the City; and (c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or other audits of the books of or reports to the City.

"Loan" means the loan made by the Bank to the City under Section 3.1.

"Loan Repayment Date" means each of the dates set forth in Appendix A hereto, on which installments of principal of and interest on the Loan come due and payable.

"Loan Repayments" means all payments required to be paid by the City under Section 3.4, including any prepayment thereof under Sections 6.1 or 6.2.

"Material Adverse Effect" means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the Park, (b) the ability of the City to carry out its business in the manner conducted as of the date of this Loan Agreement or to meet or perform its obligations under this Loan Agreement on a timely basis, (c) the validity or enforceability of this Loan Agreement, or (d) the rights of or benefits available to the Bank under this Loan Agreement or (e) the exclusion of interest with respect to the Loan Repayments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes.

"Material Litigation" means any action, suit, proceeding, inquiry or investigation against the City in any court or before any arbitrator of any kind or before or by any Governmental Authority, of which the City has notice or knowledge and which, (i) if determined adversely to the City, may have a Material Adverse Effect, (ii) seek to restrain or enjoin any of the transactions contemplated hereby or by this Loan Agreement, or (iii) may adversely affect (A) the exclusion of interest with respect to the Loan Repayments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes or (B) the ability of the City to perform its obligations under this Loan Agreement.

"Maximum Lawful Rate" means the respective maximum, non usurious, lawful rate of interest that may be contracted for, charged or received on Indebtedness under Applicable Usury Laws presently in effect or, to the extent permitted by law, under Applicable Usury Laws that may hereafter be in effect and that allow a higher maximum non usurious rate of interest than Applicable Usury Laws now allow.

"Negative Pledge Agreement" means the Negative Pledge Agreement dated as of December 1, 2012 between the City and the Bank.

"Net Revenues" means, for any period, an amount equal to all of the Gross Revenues received during such period minus the amount required to pay all Operation and Maintenance Costs becoming payable during such period.

"NFA" means the Novato Financing Authority, a joint exercise of powers agency duly organized under the laws of the State of California.

"1997 Bonds" means, collectively, the 1997 Senior Bonds and the 1997 Subordinate Bonds.

"1997 Indenture" means the Trust Indenture, dated as of March 1, 1997, between the CLFGA and the Trustee.

"1997 Loan Agreement" means the Loan Agreement, dated as of March 1, 1997, among the CLFGA, the NFA and the Park Acquisition Corporation of the Marin Valley Mobile Country Club.

"1997 Senior Bonds" means the California Local Government Finance Authority Senior Revenue Bonds, Series 1997A (Marin Valley Mobile Country Club Park Acquisition Project).

"1997 Subordinate Bonds" means the California Local Government Finance Authority Subordinate Revenue Bonds, Series 1997B (Marin Valley Mobile Country Club Park Acquisition Project).

"1997 Trustee" means U.S. Bank National Association, its successors and assigns, as trustee for the 1997 Bonds.

"Operation and Maintenance Costs" means the reasonable and necessary costs and expenses paid by the City to maintain and operate the Park, including but not limited to (a) management fees and expenses, (b) costs of utilities supplied to the Park, (c) the reasonable expenses of repair and other costs and expenses necessary to maintain and preserve the Park in good repair and working order (but not including any costs properly chargeable to the capital account for the Park), and (d) the reasonable administrative costs of the City attributable to the operation and maintenance of the Park (but not in excess of \$25,000 in any Fiscal Year). Operation and Maintenance Costs shall not include (i) Loan Repayments and payments on any Parity Debt, (ii) depreciation, replacement and obsolescence charges or reserves therefor, and (iii) amortization of intangibles or other bookkeeping entries of a similar nature.

"Other Taxes" means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Loan Agreement.

"Parity Debt" means any bonds, notes or other obligations of the City payable from and secured by a pledge of and lien on a parity with the Loan Repayments, which are hereafter issued or incurred by the City in accordance with Section 4.8.

"Parity Debt Documents" means, collectively, the indenture of trust, trust agreement or other document authorizing the issuance of any Parity Debt or any securities which evidence Parity Debt.

"Park" means the Marin Valley Mobile Country Club Park owned and operated by the City, including but not limited to all facilities, properties, lands, rights, entitlements and other property useful or necessary in connection therewith, together with all extensions thereof and improvements thereto at any time acquired, constructed or installed by the City.

"Permitted Investments" means any of the following:

- (a) Interest and non-interest bearing deposit accounts with the Bank;
- (b) Interest bearing savings accounts with the Bank;
- (c) Certificates of deposit issued by the Bank;
- (d) Money market funds available through the Bank; and
- (e) any other investments which are authorized for the investment of City funds under the laws of the State of California for which the City receives written approval from the Bank.

"Person" means any natural or legal person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any "employee pension benefit plan" which is maintained by the City which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code.

"Refunding Instructions" means the Irrevocable Refunding Instructions dated as of December 19, 2012, given by the City to the 1997 Trustee and consented to by Assured Guaranty Municipal Corp., as successor to Financial Security Assurance Inc.

"Reportable Event" shall have the meaning given to such term in Section 4043 of ERISA and the regulations thereunder.

"Tax Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official guidance published, under the Tax Code.

"Taxable Rate" means, from and after the occurrence of a Determination of Taxability, 4.25%%.

"Taxes" has the meaning assigned to such term in Section 3.4(d)(ii).

"Term" means the time during which this Loan Agreement is in effect, as provided in Section 3.3.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 2.1. *Representations, Covenants and Warranties of the City.* The City represents, covenants and warrants to the Bank as follows:

(a) Due Organization and Existence. The City is a municipal corporation and political subdivision of the State of California, duly organized and existing under the laws of the State of California.

(b) Authorization. The laws of the State of California, including the Act, authorize the City to enter into this Loan Agreement, to enter into the transactions contemplated hereby and to carry out its obligations hereunder, and the City Council of the City has duly authorized the execution and delivery of this Loan Agreement. This Loan Agreement constitutes the legal, valid and binding agreement of the City enforceable against the City in accordance with its terms.

(c) No Violations. Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the City, other than as set forth herein.

(d) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Loan Agreement, or the consummation of any transaction herein contemplated, except as have been obtained or made and as are in full force and effect.

(e) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the

assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a Material Adverse Effect, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Loan Agreement or the financial conditions, assets, properties or operations of the City.

(f) No Prior Indebtedness. The City has not issued or incurred any obligations which are currently outstanding that are payable out of the Gross Revenues or the Net Revenues on a senior or parity basis to or with the Loan Repayments.

(g) No Default. The City is not in default under the terms of any agreement or instrument to which the City is a party or by which the City is bound, which default would have a Material Adverse Effect.

(h) Compliance with Environmental Laws. The City (i) has not become subject to any Environmental Liability with respect to the Park nor does the City know of any basis for any Environmental Liability with respect to the Park, (ii) has not received notice of any Environmental Claim with respect to the Park or of any failure or alleged failure to comply with applicable federal, state or local health and safety statutes or regulations in connection with its operation of the Park, and (iii) to the best of the knowledge of the City, is in material compliance with all Environmental Laws and has obtained and maintains and materially complies with any permit, license or other approval required under any Environmental Law, in each case with respect to the Park and the City's operation thereof.

(i) ERISA. The City does not maintain or contribute to, and has not maintained or contributed to, any Plan that is subject to Title IV of ERISA.

(j) Usury. The terms of this Loan Agreement regarding the calculation, payment, collection and receipt of interest and fees do not violate any Applicable Usury Laws.

(k) Fee Title. The City is owner in fee title to the Park.

(l) Flooding Risk. The Park, other than as previously disclosed by the City to the Bank, is not located in a flood hazard area and has never been subject to material damage from flooding.

(m) Financial Statements. The statement of financial position of the City as of June 30, 2011, and the related statement of activities and statement of cash flows and changes in financial position for the year then ended and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Bank, are complete and correct and fairly present the financial condition, changes in financial position and

results of operations of the City at such date and for such period, and were prepared in accordance with generally accepted accounting principles. Since the period of such statements, there has been no (i) change which would have a Material Adverse Effect and (ii) no material increase in the indebtedness of the City.

(n) No Material Adverse Change. Since the most current date of the information, financial or otherwise, supplied by the City to the Bank:

(i) There has been no change in the assets, liabilities, financial position or results of operations of the City that might reasonably be anticipated to cause a Material Adverse Effect.

(ii) The City has not incurred any obligations or liabilities that might reasonably be anticipated to cause a Material Adverse Effect.

(iii) The City has not (A) incurred any material indebtedness payable from Gross Revenues other than the Loan Repayments and trade accounts payable arising in the ordinary course of the City's business and not past due, or (B), from Gross Revenues, guaranteed the indebtedness of any other person.

(o) Accuracy of Information. All information, reports and other papers and data furnished by the City to the Bank were, at the time the same were so furnished, complete and accurate in all material respects and insofar as necessary to give the Bank a true and accurate knowledge of the subject matter and were provided in expectation of the Bank's reliance thereon in entering into the transactions contemplated by this Loan Agreement. No fact is known to the City which has had or, so far as the City can now reasonably foresee, may in the future have a Material Adverse Effect, which has not been set forth in the financial statements previously furnished to the Bank or in other such information, reports, papers and data or otherwise disclosed in writing to the Bank prior to the Closing Date. Any financial, budget and other projections furnished to the Bank by the City or its or their agents were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent the City's best estimate of its future financial performance. No document furnished nor any representation, warranty or other written statement made to the Bank in connection with the negotiation, preparation or execution of this Loan Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state (as of the date made or furnished) any material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were or will be made, not misleading.

(o) Anti-Terrorism Representation.

(i) The City is not in violation of any laws relating to terrorism or money laundering ("Anti Terrorism Laws"), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "Executive Order"), and the USA Patriot Act, Title III of Pub. L. 107-56, 115 Stat. 272 (the "Patriot Act");

(ii) The City is not any of the following:

(A) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(B) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(C) a Person with which the Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti Terrorism Law;

(D) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or

(E) a Person that is named as a "specially designated national and blocked person" on the most current list published by the Office of Foreign Asset Control ("OFAC") or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list;

(iii) The City does not (i) conduct any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (ii)(B) above, (ii) deal in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engage in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti Terrorism Law.

SECTION 2.2. *Representations, Covenants and Warranties of the Bank.*
The Bank represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence. The Bank is a banking corporation duly organized and existing under the laws of the State of California, and is authorized to enter into this Loan Agreement and to perform its obligations hereunder.

(b) Due Execution. The representatives of the Bank executing this Loan Agreement are fully authorized to do so.

(c) Valid, Binding and Enforceable Obligations. This Loan Agreement has been duly authorized, executed and delivered by the Bank and constitutes the legal, valid and binding agreement of the Bank, enforceable against the Bank in accordance with its terms.

(d) No Violations. Neither the execution and delivery of this Loan Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Bank is now a party or by which the Bank is bound, or constitutes a default under any of the foregoing.

(e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Bank, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Loan Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

ARTICLE III

TERMS OF LOAN

SECTION 3.1. *Obligation to Make Loan; Amount of Loan*. The Bank hereby agrees to lend to the City, and the City hereby agrees to borrow from the Bank, the amount of \$_____ under the terms and provisions set forth in this Loan Agreement. The Loan shall be made by the Bank to the City in immediately available funds on the Closing Date. The Bank will fund the Loan through Old Republic Title Company (the "Title Company"). The proceeds of the Loan are \$_____, constituting the principal amount of the Loan, less original issue discount in the amount of \$_____.

SECTION 3.2. *Application of Loan Proceeds*. On the Closing Date, the proceeds of the Loan shall be disbursed as follows:

(a) the Bank shall cause the Title Company to transfer the amount of \$_____ to the 1997 Trustee, to be held and administered under the Refunding Instructions for the purpose of defeasing and redeeming the outstanding 1997 Senior Bonds, thereby discharging the City's obligations under the 1997 Loan Agreement and the other Mortgage Loan Documents, as they relate to the 1997 Senior Bonds;

(b) the Bank shall cause the Title Company to transfer \$_____ to Assured Guaranty Municipal Corp., as successor to

Financial Security Assurance Inc., representing all amounts owed to Assured Guaranty Municipal Corp. under the Insurance Agreement (as such term is defined in the 1997 Indenture) or otherwise with respect to the Park, the 1997 Senior Bonds or the 1997 Loan Agreement; and

(c) the Bank and the City shall direct the Title Company to use the remaining proceeds of the Loan to pay the various costs related to the execution and delivery of this Loan Agreement and the defeasance and redemption of the 1997 Senior Bonds, as set forth in instructions provided to the Title Company.

In connection with the disbursement of the amounts set forth above, the Title Company shall record a reconveyance to the Mortgage (as such term is defined in the 1997 Indenture) executed by the 1997 Trustee and properly notarized, and in form and substance satisfactory to the Bank, and the Negative Pledge Agreement, properly notarized.

SECTION 3.3. *Term.* The Term of this Loan Agreement commences on the Closing Date, and ends on December 1, 2027 or sooner if provision for such payment is made as provided herein.

SECTION 3.4. *Loan Repayments.*

(a) Obligation to Pay. The City hereby agrees to repay the Loan in the aggregate principal amount of \$_____ together with interest on the unpaid principal balance thereof at the rate of 2.805%, payable in monthly Loan Repayments in the respective amounts and on the respective Loan Repayment Dates specified in Appendix A. The portion of the Loan Repayments representing interest shall be calculated at the rate of 2.805% per annum on a 365/360 basis (that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding). All interest payable under this Loan Agreement shall be computed using this method. In the event that a Determination of Taxability occurs, the Loan will bear interest, from and after the date of such Determination of Taxability, at the Taxable Rate, and the Bank shall provide the City a revised Appendix A recalculated to amortize the remaining term of the Loan on a level debt service basis at the Taxable Rate. In addition, the City shall make, within 30 days of a receiving a demand of the Bank, a payment to the Bank sufficient to indemnify the Bank and supplement the interest component of prior Loan Repayments to an interest rate equal to the Taxable Rate to the extent such prior interest amounts are determined to be taxable, and such obligation shall survive the termination of this Loan Agreement.

The Bank shall have the right to debit the City of Novato - MVMCC Account on each Loan Repayment Date to make the payments described in this Section 3.4(a) without further permission of the City.

(b) Effect of Prepayment. If the City prepays the Loan Repayments in full under Article VI, and all payments required to be made to the Bank pursuant to Section 3.4(c), Section 3.4(d) and Section 4.1 hereof have been made, the City's obligations under this Loan Agreement shall thereupon cease and terminate, including but not limited to the City's obligation to pay Loan Repayments under this Section 3.4; subject

however, to the provisions of Section 6.3 in the case of prepayment by application of a security deposit.

(c) Rate on Overdue Payments. If the City fails to make any of the payments required in Section 3.4(a) and (b), the payment in default shall continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the Loan Repayment Date to the applicable date of payment at the Default Rate.

(d) Additional Payments.

(i) The City agrees to pay the reasonable out-of-pocket expenses and disbursements of the Bank and the necessary and reasonable fees, expenses and disbursements of counsel to the Bank in connection with (A) obtaining any waiver or consent under this Loan Agreement (whether or not the transactions contemplated thereby shall be consummated) or any Event of Default or alleged Event of Default hereunder, (B) the preparation, execution, delivery, administration and enforcement or preservation of rights in connection with a workout, restructuring or waiver with respect to this Loan Agreement and (C) the occurrence of an Event of Default and collection and other enforcement proceedings resulting therefrom.

(ii) Any and all payments to the Bank by the City hereunder shall be made free and clear of, and without deduction for, any and all taxes, levies, imposts, deductions, charges or withholdings imposed, including but not limited to as a result of a change in, law, rule, treaty, or regulation, or any policy, guideline, or directive of, or any change in the interpretation, implementation, or administration thereof by, any Governmental Authority, and all liabilities with respect thereto, excluding taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein solely as a result of a connection between the Bank and such jurisdiction or political subdivision, other than a connection resulting solely from executing, delivering or performing its obligations or receiving a payment under, or enforcing, this Loan Agreement (all such non excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as "Taxes").

(iii) In addition, the City shall pay or cause to be paid on demand, any present or future stamp, recording, or Other Taxes and fees payable or determined to be payable under Applicable Law in connection with the execution, delivery, filing and recording of this Loan Agreement and agrees to save the Bank harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees.

SECTION 3.5. *Nature of City's Obligations.*

(a) Special Obligation. The City's obligation to pay the Loan Repayments is a special obligation of the City limited solely to amounts available from Gross Revenues. Under no circumstances is the City required to advance moneys derived from any source of income other than the Gross Revenues and other sources specifically identified herein for the payment of the Loan Repayments, and no other funds or

property of the City are liable for the payment of the Loan Repayments. Notwithstanding the foregoing provisions of this Section, however, nothing herein prohibits the City voluntarily from making any payment hereunder from any source of available funds of the City.

(b) Obligations Absolute. The obligation of the City to pay the Loan Repayments from the Gross Revenues and the obligation of the City to perform and observe the other covenants and agreements contained herein, are absolute and unconditional and are not subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the City or the Bank of any obligation to the City or otherwise with respect to the Park, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Bank. Until such time as all of the Loan Repayments have been fully paid or prepaid, the City:

(i) will not suspend or discontinue payment of any Loan Repayments,

(ii) will perform and observe all other agreements contained in this Loan Agreement, and

(iii) will not terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Park, sale of the Park, the taking by eminent domain of title to or temporary use of any component of the Park, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the Bank to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement.

SECTION 3.6. *Pledge and Application of Gross Revenues.*

(a) Pledge. All of the Gross Revenues, whether on deposit in the City of Novato - MVMCC Account or elsewhere, are hereby irrevocably pledged to secure the Loan Repayments and all Parity Debt, on a parity basis. The Gross Revenues and such other funds may not be used for any other purpose so long as the Loan Repayments remain unpaid; except that out of the Gross Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by this Section 3.6.

(b) Deposit and Application of Gross Revenues. The City has heretofore established the City of Novato - MVMCC Account, which the City agrees to continue to hold and maintain for the purposes and uses set forth herein. The City shall initially deposit all Gross Revenues in the City of Novato - MVMCC Account, and all Gross Revenues, whether on deposit in the City of Novato - MVMCC Account or otherwise, are hereby pledged for the payment of the Loan Repayments and Parity Debt. Gross Revenues, wherever deposited, shall be applied by the City to pay when due the following amounts in the following order of priority:

(i) all Operation and Maintenance Costs, when due;

(ii) the Loan Repayments and all payments of principal of and interest on any Parity Debt;

(iii) any other payments required to comply with the provisions of this Loan Agreement and any Parity Debt Documents, including amounts payable pursuant to Section 3.4(c), Section 3.4(d) and Section 4.1 hereof;

(iv) any other purposes authorized under subsection (c) of this Section 3.6.

(c) Other Uses of Gross Revenues Permitted. The City shall manage, conserve and apply the Gross Revenues in such a manner that all payments required to be made pursuant to the preceding subsection (b) will be made at the times and in the amounts so required. Subject to the foregoing sentence, but only after release of the Gross Revenues as provided in the last sentence of this paragraph (c), so long as no Event of Default has occurred and is continuing hereunder, the City may use and apply Gross Revenues for (i) the payment of any subordinate obligations or any unsecured obligations, (ii) the acquisition and construction of improvements to the Park, (iii) the prepayment of any obligations of the City relating to the Park, or (iv) any other lawful purposes of the City, including but not limited to the payment or reimbursement to the City of administrative costs not otherwise reimbursed as part of Operation and Maintenance Costs. Any amounts on deposit in City of Novato - MVMCC Account in excess of \$180,000 on the day next succeeding a Loan Repayment Date may be withdrawn by the City and transferred to such other funds and accounts established by the City as the City may determine, provided that amounts so withdrawn shall still be considered Gross Revenues and pledged to the payment of Operation and Maintenance Costs and Loan Repayments.

(d) Budget and Appropriation of Loan Repayments. During the Term of this Loan Agreement, the City shall adopt all necessary budgets and make all necessary appropriations of the Loan Repayments from the Gross Revenues. The covenants on the part of the City contained in this subsection (d) shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such actions and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this subsection (d).

(e) No Preference or Priority. Payment of the Loan Repayments and the principal of and interest on any Parity Debt shall be made without preference or priority. In the event that the amount of Gross Revenues on deposit in the City of Novato - MVMCC Account is at any time insufficient to enable the City to pay in full, after payment of Operation and Maintenance Costs, the Loan Repayments and the principal of and interest on any Parity Debt, such payments shall be made on a pro rata basis.

(f) Moneys on deposit in the City of Novato - MVMCC Account and any other account relating to the Park maintained at Bank shall be invested in Permitted Investments. In the event the City does not provide the Bank with written instructions regarding the investment of such amounts, the Bank shall invest such amounts in investments identified in paragraph (d) of the definition of Permitted Investments. Gross

Revenues released pursuant to (c) above shall be invested in any investments which are authorized for the investment of City funds under the laws of the State of California.

SECTION 3.7. *Late Charges.* If the City fails to make any Loan Repayment and such failure results in the untimely payment of principal and interest on the Loan, or if the City fails to make any other payment when due, in each case, taking into account any grace period allowed for such payment, the City shall pay to the Bank a late charge equal to 5.00% of the past due payment.

ARTICLE IV

COVENANTS OF THE CITY

SECTION 4.1. *Release and Indemnification Covenants.* The City shall indemnify the Bank, its Affiliates, and their officers, agents, employees, successors and assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of the following:

(a) the use, maintenance, condition or management of, or from any work or thing done on or about the Park by the City or its employees, agents, directors, contractors or officers,

(b) any Environmental Claim or Environmental Liability with respect to the Park,

(c) any breach or default on the part of the City in the performance of any of its obligations under this Loan Agreement,

(d) any intentional misconduct or negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Park,

(e) any intentional misconduct or negligence of any lessee of the City with respect to the Park, and

(f) any income taxes paid by the Bank as a result of a Determination of Taxability for any period prior to the effective date of the Taxable Rate.

No indemnification is made under this Section 4.1 or elsewhere in this Loan Agreement for willful misconduct, gross negligence, or breach of duty under this Loan Agreement by the Bank and its officers, agents, employees, successors or assigns.

SECTION 4.2. *Sale or Eminent Domain of Park.* Except as provided herein, the City covenants that the Park will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or substantially as a whole or in part. The City shall not enter into any agreement that impairs the operation of the Park or any part of it necessary to secure adequate Net Revenues to pay the Loan Repayments, or which otherwise would impair the rights of the Bank with respect to the Net Revenues. If the whole of the Park or any substantial part of the Park is sold, the

payment therefor must be applied to prepay the Loan Repayments or any Parity Debt in whole.

If all or any part of the Park shall be taken by eminent domain proceedings, the net proceeds realized by the City therefrom shall be deposited by the City in a special fund with the Bank and applied to the prepayment of the Loan Repayments or, with the written consent of the Bank, by the City to the cost of acquiring and constructing additions, betterments, extensions or improvements to the Park. Pending such application, such proceeds shall be invested by the Bank in Permitted Investments that mature not later than such times as shall be necessary to provide moneys when needed.

SECTION 4.3. *Insurance.* The City shall at all times maintain with responsible insurers all such insurance on the Park as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Park, in a coverage amount which is not less than the unpaid principal balance of the Loan (being the amount of \$_____ on the Closing Date). The City shall also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the City and the Bank. The Bank shall be listed as a loss payee and an additional insured with respect to any policy or policies of casualty insurance and public liability insurance. Any insurance required to be maintained hereunder may be maintained by the City in the form of self-insurance or in the form of participation by the City in a program of pooled insurance, subject to the prior written approval of the Bank.

Additionally, the City shall maintain business interruption insurance against loss of rental income in an amount equal to the amount payable under the Loan during a [24]-month period.

The City shall apply any insurance proceeds as set forth in Section 4.16.

SECTION 4.4. *Records and Accounts.* The City shall keep proper books of records and accounts of the Park, separate from all other records and accounts, in which complete and correct entries are made of all transactions relating to the Park. Said books shall, upon prior request, be subject to the reasonable inspection of the Bank and its representatives authorized in writing, upon not less than two Business Days' prior notice to the City.

The City shall cause the books and accounts of the Park to be audited annually, in accordance with the standards prescribed by GASB, by an Independent Accountant, not more than 180 days after the close of each Fiscal Year, and when available shall furnish a copy of such report to the Bank. The audit of the accounts of the Park may be included as part of a general City-wide audit.

SECTION 4.5. *Rates and Charges.* The City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Park during each Fiscal Year which are at least sufficient, after making allowances for contingencies and error in the estimates, to yield Gross Revenues sufficient to pay the following amounts in the following order of priority:

- (a) All Operation and Maintenance Costs estimated by the City to become due and payable in such Fiscal Year;

(b) The Loan Repayments and the principal of and interest on any Parity Debt as they become due and payable during such Fiscal Year, without preference or priority, except to the extent payable from capitalized interest;

(c) All payments required to meet any other obligations of the City which are charges, liens, encumbrances upon, or which are otherwise payable from, the Gross Revenues or the Net Revenues during such Fiscal Year.

In addition, the City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Park during each Fiscal Year which are sufficient to yield Net Revenues that are at least equal to 200% of the amount described in the preceding clause (b) for such Fiscal Year.

SECTION 4.6. *Operation and Maintenance Costs.* The City covenants and agrees that it will pay, but only out of Gross Revenues, all Operation and Maintenance Costs on a timely basis.

SECTION 4.7. *No Priority for Additional Obligations; Compliance With Parity Debt Documents.* The City may not issue or incur any bonds or other obligations having any priority in payment of principal or interest out of the Net Revenues over the Loan Repayments other than pursuant to Section 4.8 hereof. The City shall observe and perform all of the covenants, agreements and conditions on its part required to be observed and performed under the Parity Debt Documents. The City shall not take or omit to take any action within its control which would, or which if not corrected with the passage of time would, constitute an event of default under any Parity Debt Documents.

SECTION 4.8. *Issuance of Parity Debt.* The City may issue or incur Parity Debt at any time and from time to time during the Term hereof, provided that all of the following conditions precedent shall be satisfied prior to the issuance of such Parity Debt:

(a) No Event of Default has occurred and is continuing;

(b) The Net Revenues, calculated in accordance with sound accounting principles, as shown by the books of the City for the most recent completed Fiscal Year for which audited financial statements for the Park are available, or for any more recent consecutive 12-month period selected by the City, in either case verified by an Independent Accountant or a Fiscal Consultant or shown in the audited financial statements of the City, at least equal 200% of the maximum amount of Loan Repayments and payments on outstanding Parity Debt (including the Parity Debt then proposed to be issued) coming due and payable in the current or any future Fiscal Year;

(c) The principal amount of the Loan outstanding at the time of the issuance or delivery of such Parity Debt, plus the principal amount of such Parity Debt, will not exceed sixty five percent (65%) of the value of the Park, such value to be determined by the City obtaining an appraisal

of the Park from a State of California certified appraiser acceptable to the Bank.

(d) The Bank, the City and, if applicable, the lender or the trustee for the Parity Debt, enter into an intercreditor agreement in form and substance reasonably satisfactory to the Bank.

SECTION 4.9. *Assignment by the Bank.* The Bank has the right to assign any or all of its interests herein, but no such assignment will be effective as against the City unless and until the Bank files written notice thereof with the City. The City shall pay all Loan Repayments pursuant to the written direction of the Bank named in the most recent assignment or notice of assignment filed with the City. During the Term of this Loan Agreement, the City will keep a complete and accurate record of all such notices of assignment.

In connection with the assignment of any or all of its rights hereunder, the Bank may request the City to execute and deliver such documentation as is necessary, in the reasonable opinion of the Bank, to effectuate such assignment. The City understands and acknowledges that in connection with such an assignment, it may be required to make Loan Repayments to other than the Bank, or to provide the notices and other materials set forth in Section 4.13 hereof or otherwise required hereby to an assignee of the Bank, provided that the City shall not be required to make Loan Repayments to more than one Person at a time, or to send notices and other materials to more than one Person at a time. In such event, the Bank shall notify the City to which assignee the City should make Loan Repayments and send notices and other materials.

SECTION 4.10. *Assignment by the City.* Neither the Loan nor this Loan Agreement may be assigned by the City without the written consent of the Bank.

SECTION 4.11. *Amendment of this Loan Agreement.* This Loan Agreement may be amended pursuant to written agreement between the City and the Bank.

SECTION 4.12. *Tax Covenants.*

(a) Generally. The City may not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest components of the Loan Repayments to become includable in gross income for federal income tax purposes.

(b) Private Activity Bond Limitation. The City shall assure that the proceeds of the Loan are not so used as to cause the Loan to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Tax Code.

(c) Federal Guarantee Prohibition. The City may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Loan Repayments to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The City may not take, or permit or suffer to be taken, any action with respect to the proceeds of the Loan Repayments which, if such action had

been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Loan Repayments to be "arbitrage bonds" within the meaning of Section 148(a) of the Tax Code.

(e) Small Issuer Exemption from Bank Nondeductibility Restriction. The City hereby designates the Loan as a "qualified tax-exempt obligation" for purposes of paragraph (3) of Section 265(b) of the Tax Code and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Tax Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in Section 141 of the Tax Code, except qualified 501(c)(3) bonds as defined in Section 145 of the Tax Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), including the Loan Repayments, has been or will be issued by the City, including all subordinate entities of the City, during the calendar year 2012.

(f) Arbitrage Rebate. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Loan.

(g) Acquisition, Disposition and Valuation of Investments. Except as otherwise provided in the following sentence, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Loan Agreement, or otherwise containing gross proceeds of the Loan (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Loan Agreement or the Tax Code) at Fair Market Value (as defined below). Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code shall be valued at their present value (within the meaning of section 148 of the Tax Code).

For purposes of this subsection (g), the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security – State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

SECTION 4.13. *Reporting and Filing Requirements.* During the Term of this Loan Agreement, the City shall make the following filings with the Bank:

(a) Audited Financial Statements. The City shall file with the Bank its audited financial statements for each Fiscal Year, including audited financial statements for the Park which are prepared in accordance with Section 4.4, not more than 180 days after the close of such Fiscal Year.

(b) Annual Budgets. The City shall file with the Bank the adopted annual budget for the Park in each Fiscal Year, not more than 30 days after the commencement of such Fiscal Year.

(c) Certificate of Compliance with Rate Covenant. The City shall file with the Bank a Certificate of the City stating that it is in compliance with the covenants set forth in Section 4.5 relating to the amount of Net Revenues being equal to 200% of the Loan Repayments and the principal and interest on Parity Debt for the Park for each Fiscal Year, not more than 210 days after the close of such Fiscal Year.

(d) Event of Default. The City shall immediately notify the Bank by telephone, promptly confirmed in writing, of any event, action or failure to take any action that constitutes an Event of Default under this Loan Agreement, together with a detailed statement by a City Representative of the steps being taken by the City to cure the effect of such Event of Default.

(e) Action, Suit or Proceeding. The City shall promptly notify the Bank in writing (i) of any action, suit or proceeding or any investigation, inquiry or similar proceeding by or before any court or other governmental authority, domestic or foreign, against the City or any of the Park, the Gross Revenues or the Net Revenues which involve claims equal to or in excess of \$500,000 or that seeks injunctive relief or (ii) of any loss or destruction of or damage to any portion of the Park in excess of \$500,000.

(f) Material Litigation. The City shall promptly notify the Bank in writing of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority with respect to any matter that relates to or could impact any of the Gross Revenues or Net Revenues.

(g) Cancellation of Insurance or Loss. The City shall promptly notify the Bank in writing in the event of any termination or cancellation of any insurance policy that the City is required to maintain, or any uninsured or partially uninsured loss through liability or property damage, or through fire, theft or any other cause affecting the Park property in excess of an aggregate of \$500,000.

(h) Additional Information. The City shall file with the Bank such additional information as the Bank may reasonably request in writing, within a reasonable period of time after the receipt of such written request by the City.

SECTION 4.14. *Collection of Charges, Fees and Rates.* The City will have in effect at all times protocols requiring each tenant of the Park to pay all applicable rents, charges, fees and rates and providing for the billing thereof. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the City will take necessary actions to enforce the collection procedures contained in such protocols.

SECTION 4.15. *Against Encumbrances.* The City will not mortgage or otherwise encumber, pledge or place any charge or lien upon any of the Park (including any deed or trust or mortgage on all or any part thereof), the Gross Revenues or the Net Revenues except as expressly provided in this Loan Agreement and, except for Parity Debt, will not issue any obligations secured by Gross Revenues or Net Revenues on a parity with, or senior to, the Loan Repayments and Parity Debt; provided, that the City may issue subordinate obligations.

SECTION 4.16. *Reconstruction of System; Application of Insurance Proceeds.* If any useful portion of the Park shall be damaged or destroyed, the City shall, as expeditiously as possible, continuously and diligently pursue or cause to be pursued the reconstruction or replacement thereof, unless the City shall file with the Bank a written certificate of an engineer qualified to render such certificate to the effect that such reconstruction or replacement is not in the best interests of the City and the Bank. The proceeds of any insurance paid on account of such damage or destruction, other than public liability insurance, shall be deposited by the City with the Bank, for the benefit of the Bank, to be held in a special account, and shall be made available for, and to the extent necessary applied to, (a) the cost of such reconstruction or replacement, if any, or (b) the prepayment of the principal components of the Loan Payments as determined by the Bank. Pending such application, such proceeds may be invested by the Bank in Permitted Investments that mature not later than such times as shall be necessary to provide moneys when needed to pay such cost of reconstruction or replacement. Any balance of such proceeds of insurance not required by the City for the purposes aforesaid shall be deemed to constitute Gross Revenues, and shall be transferred by the Bank to the City for deposit into the City of Novato - MVMCC Account.

SECTION 4.17. *Compliance with Laws.* The City shall comply with all laws, rules and regulations, and with all final orders, writs, judgments, injunctions, decrees or awards to which it may be subject, and any failure of the City to comply with any such law, rule, regulation, final order, writ, judgment, injunction, decree or award, shall constitute a breach of this covenant unless and insofar as in the reasonable opinion of the Bank such failure to comply has not had and could not have, singly or in the aggregate with other such failures, a Material Adverse Effect; provided, however, that the City may contest the validity or application thereof and appeal or otherwise seek relief therefrom, and exercise any and all of the rights and remedies which it may have with regard thereto, so long as such acts do not affect the City's power and authority to execute this Loan Agreement or to perform its obligations and pay all amounts payable by it hereunder and thereunder, or otherwise result in a Event of Default, or would result in an Event of Default but for the giving of notice or the passage of time, hereunder.

SECTION 4.18. *Plans.* In the event the City establishes a Plan, it shall maintain and administer it such that it is in full compliance with in all material respects with all Applicable Laws, including but not limited to ERISA and the Tax Code, and it shall not permit any such Plan to experience unfunded liabilities; nor shall such it permit a condition to exist or a transaction to occur with respect to any Plan maintained by it

which could reasonably be expected to result in the incurrence by it of any material liability, fine or penalty. The City shall not, with regard to any such Plan (i) engage in or permit any other party to engage in any "prohibited transaction" (as defined in Section 4975 of the Tax Code) with respect to such a Plan, which could reasonably be expected to result in the incurrence by it of any material liability, fine or penalty, (ii) permit any such Plan to incur any "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA) whether or not waived, which could reasonably be expected to result in the incurrence by it of any material liability, fine or penalty, (iii) either directly or indirectly, cause any such Plan to terminate, either under Section 4041 or 4042 of ERISA, in a manner that could result in the imposition of a material lien or encumbrance on the assets of it pursuant to Section 4068 of ERISA or (iv) take or permit any action that could result in a withdrawal or partial withdrawal from such a Plan and result in the assessment of any Withdrawal Liability against it; provided, that in the case of this clause (iv), said withdrawal or partial withdrawal shall be permissible if the resultant liability would not reasonably be expected to have a Material Adverse Effect with respect to the ability to repay, when due, the obligations of the City under this Loan Agreement.

SECTION 4.19. *Park's Bank Accounts.* The City will maintain the City of Novato - MVMCC Account and the account out of which it will pay the Operation and Maintenance Costs at the Bank.

SECTION 4.20. *Notices.* During the term of this Loan Agreement, the City shall provide to the Bank:

(a) immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes an Event of Default under this Loan Agreement, together with a detailed statement by a City representative of the steps being taken by the City to cure the effect of such Event of Default;

(b) prompt written notice of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority; and

(c) with reasonable promptness, such other information respecting the City and the Park, and the operations, affairs and financial condition of the City and the Park as the Bank may from time to time reasonably request.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

SECTION 5.1. *Events of Default Defined.* The following are Events of Default under this Loan Agreement:

(a) Failure by the City to pay any Loan Repayment or other payment required hereunder within ten (10) days of the due date thereof.

(b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Bank.

(c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

(d) The occurrence of any event of default under and as defined in any Parity Debt Documents.

(e) Any statement, representation or warranty made or deemed to be made by or on behalf of the City in this Loan Agreement or in any certificate, financial or other statement furnished by or on behalf of the City to the Bank pursuant hereto or thereto shall prove to have been inaccurate, misleading or incomplete in any material respect when made or deemed to have been made.

(f) This Loan Agreement or any material provision of this Loan Agreement shall at any time for any reason cease to be the legal, valid and binding obligation of the City or shall cease to be in full force and effect, or shall be declared to be unenforceable, invalid or void, or the validity or enforceability thereof shall be contested by the City, or the City shall renounce the same or deny that it has any further liability hereunder.

(g) The dissolution, termination of existence, insolvency or business failure of the City.

(h) If any court of competent jurisdiction with jurisdiction to rule on the validity of any provision of this Loan Agreement shall find or rule that this Loan Agreement is not valid or not binding on the City.

(i) Any Material Adverse Effect shall exist.

SECTION 5.2. *Remedies on Default.* Upon the occurrence and during the continuation of an Event of Default, the Bank may, at its option and without any further demand or notice:

(a) Declare all principal components of the unpaid Loan Repayments, together with accrued interest thereon at the rate set forth in Section 3.4(c) from the immediately preceding Loan Repayment Date on which payment was made, to be immediately due and payable,

whereupon the same will immediately become due and payable; *provided, however*, that if, at any time after the principal components and interest on the unpaid Loan Repayments has been so declared due and payable and before any judgment or decree for the payment of the money due has been obtained or entered, the City deposits with the Bank a sum sufficient to pay all principal components and interest currently due on the unpaid Loan Repayments, and the expenses of the Bank, including attorneys' fees, together with interest on any such amounts advanced, and any and all other defaults known to the Bank (other than in the payment of interest and principal components on the unpaid Loan Repayments due and payable solely by reason of such declaration) have been made good or cured or provision has been made therefor, then, and in every such case, the Bank may rescind and annul such declaration and its consequences; except that no such rescission or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the Loan Repayments then due or thereafter to become due during the Term of this Loan Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Loan Agreement.

SECTION 5.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Bank is exclusive, and every such remedy is cumulative and in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default impairs any such right or power or operates as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Bank to exercise any remedy reserved to it in this Article V it is not necessary to give any notice, other than such notice as may be required in this Article V or by law.

SECTION 5.4. *Agreement to Pay Attorneys' Fees and Expenses.* If either party to this Loan Agreement defaults under any of the provisions hereof and the nondefaulting party employs attorneys (including in-house counsel) or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys (including those of in-house counsel) and such other expenses so incurred by the nondefaulting party.

SECTION 5.5. *No Additional Waiver Implied by One Waiver.* If any agreement contained in this Loan Agreement is breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE VI

PREPAYMENT OF LOAN

SECTION 6.1. *Optional Prepayment.* The City may prepay the unpaid principal components of the Loan Repayments in whole or in part, on any date by paying a prepayment price equal to the principal components of the Loan Repayments to be prepaid, together with the interest required to be paid on such Loan Repayment Date, with a premium as set forth below:

Prepayment Period (dates inclusive)	Prepayment Premium
December __, 2012 through December __, 2013	5%
December __, 2013 through December __, 2014	4%
December __, 2014 through December __, 2015	3%
December __, 2015 through December __, 2016	2%
December __, 2016 through December __, 2022	1%
Any time after December __, 2022	0%

Notwithstanding the foregoing, the City may, on any Loan Repayment Date, prepay up to twenty percent (20%) of the principal amount of the Loan outstanding during any one year period from December __ of one year through and including December __, of the next year without incurring any prepayment penalty. The amount received by the Bank shall be applied to the principal amount of the Loan in inverse order of maturity.

The City shall give the Bank written notice of its intention to exercise its option not less than 30 days in advance of the date of exercise.

SECTION 6.2. *Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.* The City shall prepay the unpaid principal balance of the Loan in whole on any date, or in part on any Loan Repayment Date, from and to the extent the City determines to apply any proceeds of insurance award or condemnation award with respect to the Park for such purpose under Sections 4.2 or 4.16 at a price equal to the principal amount to be prepaid plus accrued interest through the date set for prepayment, together with a prepayment premium equal to the amount of the prepayment premium that would be charged if such prepayment were made pursuant to Section 6.1. The amount received by the Bank shall be applied to the principal amount of the Loan in inverse order of maturity.

The amount received by the Bank shall be applied to the principal amount of the Loan in inverse order of maturity.

SECTION 6.3. *Security Deposit.* Notwithstanding any other provision of this Loan Agreement, the City may on any date secure the payment of Loan Repayments in whole or in part, by either: ,

(a) irrevocably depositing with the Bank an amount of cash that is sufficient to pay all such Loan Repayments, including the principal and interest components thereof, when due under Section 3.4(a), or

(b) irrevocably depositing with the Bank Federal Securities in such amounts as will, in the opinion of an Independent Accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay all such Loan Repayments when due under Section 3.4(a) or, if such amounts are sufficient to prepay the Loan Repayments in full under Section 6.3, when due on any optional prepayment date under Section 6.1, as the City instructs at the time of the deposit.

In the event of a security deposit under this Section for the payment in full of all remaining Loan Repayments, (i) the City grants a first priority security interest in and lien on the security deposit and all proceeds thereof in favor of the Bank, and (ii) the pledge of Net Revenues and all other security provided by this Loan Agreement for said obligations (other than the security deposit), will cease and terminate, excepting only the obligation of the City to make, or cause to be made, all of Loan Repayments from such security deposit.

ARTICLE VII

MISCELLANEOUS

SECTION 7.1. *Notices.* Any notice, request, complaint, demand or other communication under this Loan Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by telecopier or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Bank and the City may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City:

City of Novato
75 Rowland Way, #200
Novato, California 94945
Attention: City Manager
Telephone: (415) 899-8900
Fax: (415) _____

If to the Bank:

Bank of Marin
345 California Street, Suite 1150
San Francisco, California 94104
Attention: San Francisco Commercial Banking
Telephone: (415) 403-5580
Fax: (415) 677-9141

Notwithstanding the foregoing, the City will provide the Bank with new contact information immediately upon moving to its new City Administrative Office Building.

SECTION 7.2. *Binding Effect.* This Loan Agreement inures to the benefit of and is binding upon the Bank and the City and their respective successors and assigns.

SECTION 7.3. *Severability.* If any provision of this Loan Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

SECTION 7.4. *Net-net-net Contract.* This Loan Agreement is a "net-net-net" contract, and the City hereby agrees that the Loan Repayments are an absolute net return to the Bank, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 7.5. *Further Assurances and Corrective Instruments.* The Bank and the City shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Loan Agreement.

SECTION 7.6. *Execution in Counterparts.* This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 7.7. *Applicable Law.* This Loan Agreement shall be governed by and construed in accordance with the laws of the State of California.

SECTION 7.8. *Captions.* The captions or headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Loan Agreement.

SECTION 7.9. *Dispute Resolution.* (a) *Judicial Reference.* In the event of any action, proceeding or hearing (hereinafter, a "Claim") based upon or arising out of, directly or indirectly, this Loan Agreement or any of the related documents, any dealings between the City or the Bank relating to the subject matter of the transactions contemplated by this Loan Agreement or any related transactions, and/or the relationship that is being established between the City and the Bank, the City and the Bank hereby agree that each Claim shall be determined by a consensual general judicial reference (the "Reference") pursuant to the provisions of Section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time. Upon a written request, or upon an appropriate motion by either the Bank or the City, as applicable, any pending action relating to any Claim and every Claim shall be heard by a single Referee (as defined below) who shall then try all issues (including any and all questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee's statement of decision will constitute the conclusive determination of the Claim. The City and the Bank agree that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee. The City and the Bank shall promptly and diligently cooperate with one another, as applicable, and the Referee, and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this Section 7.9. Either the City

or the Bank, as applicable, may file the Referee's findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to confirm the Referee's report and have judgment entered thereon. If the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it. The City and the Bank, as applicable, will each have such rights to assert such objections as are set forth in Section 638 et seq. of the California Code of Civil Procedure and all proceedings shall be closed to the public and confidential, and all records relating to the Reference shall be permanently sealed when the order thereon becomes final.

(b) *Selection of Referee; Powers.* The parties to the Reference proceeding shall select a single neutral referee (the "Referee"), who shall be a retired judge or justice of the courts of the State of California, or a federal court judge, in each case, with at least ten (10) years of judicial experience in civil matters. The Referee shall be appointed in accordance with Section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within ten (10) days after the request or motion for the Reference, the parties to the Reference proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the Marin County Superior Court, or of the U.S. District Court for the Northern District of California. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this Section 7.9(b).

(c) *Provisional Remedies and Self Help.* No provision of this Section 7.9 shall limit the right of either the City or the Bank as the case may be, to (i) exercise such self-help remedies as might otherwise be available under applicable law, or (ii) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Reference. The exercise of, or opposition to, any such remedy does not waive the right of the City or the Bank to the Reference pursuant to this Section 7.9(c).

(d) *Costs and Fees.* Promptly following the selection of the Referee, the parties to such Reference proceeding shall each advance equal portions of the estimated fees and costs of the Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Reference proceeding in such manner as the Referee deems just.

SECTION 7.10. *Usury.* (a) Notwithstanding anything herein to the contrary, if at any time the amount of interest required to be paid on any Loan Repayment Date calculated in accordance with the terms of this Loan Agreement (together with any fees, charges and other amounts which are treated as interest on the Loan under Applicable Usury Laws (collectively the "Charges")), exceeds the amount of interest that would have been payable for the applicable period had interest for such period been calculated at the Maximum Lawful Rate, then the rate of interest payable in respect of the Loan hereunder for such period (together with any Charges payable in respect thereof) shall be limited to the Maximum Lawful Rate. Any interest (and Charges) that would have been due and payable under any provision hereof but for the operation of the preceding sentence, shall accrue and be payable as provided in subsections (b) and (c) and shall constitute, less interest actually paid to the Bank on such Loan Repayment Date, the "Excess Interest Amount."

(b) If there is any accrued and unpaid Excess Interest Amount as of any interest payment date, then, on the current and each subsequent Loan Repayment Date, interest shall be paid at the Maximum Lawful Rate rather than the otherwise applicable rate until the earliest of (i) payment to the Bank of the entire accrued Excess Interest Amount, (ii) the final Loan Repayment Date or (iii) the date on which no principal amount hereunder remains unpaid.

(c) Notwithstanding the foregoing, all unpaid Excess Interest Amount shall be, to the fullest extent permitted by Applicable Law, due and payable by the City as a fee on the earlier of (i) the final payment date on the Loan or (ii) the date on which no principal amount hereunder remains unpaid.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed in its corporate name by their duly authorized officer officers, as of the date first above written.

BANK OF MARIN

By _____
Name: _____
Title: _____

CITY OF NOVATO

By _____
Michael Frank, City Manager

ATTEST:

By _____
City Clerk

APPENDIX A

SCHEDULE OF LOAN REPAYMENTS

<u>Loan Repayment Date</u>	<u>Principal</u>	<u>Interest*</u>	<u>Total Loan Repayment*</u>
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* Based on the tax-exempt rate of 2.805%.

I-12
5.

Recording Requested By:

City of Novato
75 Rowland Way, Suite 200
Novato, CA 94945

And Upon Recording, Return To:

Sam S. Balisy, Esq.
Kutak Rock LLP
601 South Figueroa Street, Suite 4200
Los Angeles, CA 90017-5747

Space above this line for recorder's use only

THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

NEGATIVE PLEDGE AGREEMENT

By and between

CITY OF NOVATO

and

BANK OF MARIN

Dated as of December 1, 2012

NEGATIVE PLEDGE AGREEMENT

THIS NEGATIVE PLEDGE AGREEMENT (this “**Agreement**”) is made as of December 1, 2012 by the **CITY OF NOVATO**, a municipal corporation duly organized and existing under the laws of the State of California (“**Borrower**”), and the **BANK OF MARIN** (“**Lender**”), a California state chartered bank.

WITNESSETH:

WHEREAS, Borrower is the owner of that certain parcel of land described on **Exhibit A** attached hereto and made a part hereof (such parcel of land, together with all improvements located thereon, and including, without limitation, all appurtenances thereunto belonging or in anywise appertaining thereto, the “**Property**”), having a street address of 100 Marin Valley Drive, Novato, California 94949;

WHEREAS, pursuant to a Loan Agreement dated as of the date hereof (as the same may be amended, restated, modified or supplemented and in effect from time to time, the “**Loan Agreement**”) by and between Borrower and Lender, Lender has agreed, subject to the satisfaction of certain conditions precedent, to make a loan to Borrower (except as otherwise defined herein, capitalized terms used herein shall have the meaning ascribed to such terms as provided in the Loan Agreement);

WHEREAS, pursuant to the Loan Agreement, Borrower is obligated to repay the entire principal amount of the Loan, together with interest thereon at the interest rate or rates set forth in the Loan Agreement, and together with any other sums that may become due and payable hereunder or under the Loan Agreement or under any of the other documents executed and/or delivered in connection with the Loan (collectively, the “**Indebtedness**”); and

WHEREAS, in connection with the Loan, Borrower has also agreed to execute and deliver this Agreement in favor of Lender.

NOW, THEREFORE, in consideration of the mutual covenants made in the Loan Agreement, the receipt and sufficiency of which is hereby acknowledged, Borrower hereby covenants and agrees as follows:

1. Unless and until the Indebtedness is paid in full, Borrower hereby agrees and covenants to Lender that Borrower shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Property other than the rights of Lender as provided under the Loan Agreement and the permitted encumbrances identified on **Exhibit B** attached hereto (“Permitted Encumbrances”).

2. The covenants contained in this Agreement shall inure to the benefit of Lender and its successors and assigns. All covenants of Borrower contained in this Agreement shall burden the Property and run with the land, and any successor, assignee or lienholder shall be bound by the terms hereof. Without limiting the foregoing, any action of Borrower in violation of this Agreement, including, without limitation, the execution of any instrument purporting to convey or encumber any interest of Borrower in the Property other than Permitted Encumbrances shall be null and void.

3. Upon Borrower’s satisfaction of all of its obligations under the Loan Agreement, Lender, or its assignee, shall execute an instrument (the “**Release**”) in recordable form terminating this Agreement. Borrower shall pay all reasonable costs and expenses incurred in connection with the Release.

4. The provisions of this Agreement shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors and assigns.

5. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon, provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Agreement attached thereto.

6. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to any choice of law provisions thereof. The dispute resolution and provisional remedies provisions set forth in Section 7.9 of the Loan Agreement are hereby incorporated by reference in this Agreement as if fully set forth herein.

[REMAINDER OF PAGE INTENTIONALLY BLANK; EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered as of the day and year first above written.

BORROWER:

CITY OF NOVATO

By _____
Michael Frank, City Manager

ATTEST:

By _____
City Clerk

LENDER:

BANK OF MARIN

By _____
Sterling Burnett, Vice President

[EXECUTION PAGE OF THE NEGATIVE PLEDGE AGREEMENT]

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____

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

EXHIBIT A

LEGAL DESCRIPTIONS OF PROPERTY

The land referred to in this Agreement is situated in the County of Marin, City of Novato, State of California, and is described as follows:

PARCEL ONE:

Beginning for reference at a found open 2 inch iron pipe accepted as that monument shown on Record of Survey filed July 10, 1969 in [Book 8 of Surveys, at Page 57](#), Marin County Records, as being the corner common the Rancho San Jose and the Rancho San Pedro Santa Margarita Y Las Gallinas; said point also being designated "S.J.1", as shown on that certain Plat entitled, "Plat of Rancho San Jose, July 1858", filed for record in Book A of Patents on Page 1, Marin County Records; said point being the Northwest corner of Survey No. 5 in Township 2 North, Range 6 West, Mount Diablo Meridian; thence along the boundary of said Rancho San Jose and the Westerly line of said 8 O.S. 57, North 31° 38' 57" West, 141.51 feet to the true point of beginning; thence leaving said Rancho boundary and said Westerly line of 8 O.S. 57, North 58° 21' 03" East 56.66 feet; thence North 32° 44' 43" West, 112.90 feet; thence South 56° 52' 57" West 27.67 feet; thence North 36° 18' 57" West, 329.96 feet to a point on said aforementioned Rancho San Jose boundary and said Westerly line of 8 O.S. 57; thence along said Rancho boundary and said Westerly line of 8 O.S. 57, North 31° 38' 57" West 257.55 feet; thence leaving said Rancho boundary and said Westerly line of 8 O.S. 57, North 12° 57' 17" West 443.49 feet to a point on said Rancho boundary and said Westerly line of 8 O.S. 57 and which is a found, 3 inch brass capped monument, accepted as that monument shown on said 8 O.S. 57 and on that survey filed February 26, 1973 in [Book 11 of Surveys at Page 70](#), Marin County Records and being the Northeast corner thereof; thence leaving said Rancho boundary and said Westerly line of 8 O.S. 57, along the North line of said 11 O.S. 70, North 74° 45' 51" West 2061.07 feet; thence leaving said North line of 11 O.S. 70, South 28° 17' 33" West, 307.47 feet; thence South 31° 34' 45" East, 176.63 feet; thence South 11° 14' 44" West 299.74 feet; thence South 25° 35' 52" West, 22.40 feet; thence South 35° 06' 40" West 174.62 feet; thence North 21° 35' 02" West, 60.08 feet to the beginning of a 100.00 foot radius, tangent curve to the right; thence along said curve, through a central angle of 45° 39' 21", an arc distance of 79.68 feet; thence North 24° 04' 19" East, 95.85 feet to the beginning of a 200.00 foot radius, tangent curve to the left; thence along said curve, through a central angle of 68° 23' 02", an arc distance of 238.70 feet; thence North 44° 18' 43" West, 377.64 feet to the beginning of a 275.00 foot radius, tangent curve to the left; thence along said curve, through a central angle of 56° 50' 36", an arc distance of 272.83 feet to the point of reverse curvature of a 375.00 foot radius, tangent curve to the right; thence along said curve, through a central angle of 56° 44' 18", an arc distance of 371.35 feet, to the point of compound curvature of 175.00 foot radius, tangent curve to the right; thence along said compound curve, through a central angle of 25° 31' 51", an arc distance of 77.98 feet to a point bearing South 6° 18' 59" East, 215.67 feet from the most Northerly corner of that certain parcel of land granted to the City of Novato by Deed recorded September 11, 1968 in Book 2239 of Official Records at Page 176, Marin County Records; thence South 71° 06' 50" West 100.00 feet to the beginning of a 275.00 foot radius, non-tangent curve, the radius point of which bears North 71° 06' 50" East; thence Southeasterly along said curve, through a central angle of 25° 31' 51", an arc distance of 122.54 feet to the point of compound curvature of a 475.00 foot radius,

tangent curve to the left; thence along said curve, through a central angle of 56° 44' 18", an arc distance of 470.38 feet to the point of reverse curvature of a 175.00 foot radius, tangent curve to the right; thence along a curve, through a central angle of 56° 50' 36", an arc distance of 173.62 feet; thence South 44° 18' 43" East, 377.64 feet to the beginning of a 100.00 foot radius, tangent curve to the right; thence along said curve, through a central angle of 68° 23' 02", an arc distance of 119.35 feet; thence South 24° 04' 19" West, 95.85 feet to the beginning of a 200.00 foot radius, tangent curve to the left; thence along said curve, through a central angle of 45° 39' 21", an arc distance of 159.37 feet: thence South 21° 35' 02" East, 196.43 feet, to the beginning of a 140.00 foot radius, tangent curve to the left; thence along said curve, through a central angle of 82° 00' 37", an arc distance of 200.39 feet; thence South 61° 58' 24" East, 168.41 feet: thence North 46° 47' 31" East 307.04 feet; thence North 22° 43' 48" East, 306.30 feet; thence North 88° 49' 28" East 208.66 feet; thence North 73° 09' 47" East, 534.21 feet; thence South 30° 31' 33" East 50.00 feet: thence South 59° 28' 27" West, 360.08 feet; thence South 49° 17' 13" West, 154.78 feet; thence South 40° 34' 04" East 363.14 feet; thence North 45° 42' 44" East 372.01 feet; thence North 76° 56' 09" East 148.75 feet; thence South 63° 52' 01" East, 28.35 feet; thence South 26° 07' 59" West, 237.85 feet; thence South 74° 20' 31" West, 205.01 feet; thence South 8° 3' 26" West, 107.69 feet; thence South 53° 07' 25" West, 214.67 feet; thence South 68° 43' 49" West, 279.73 feet; thence South 41° 06' 02" West 223.36 feet; thence South 35° 40' 28" East 139.99 feet; thence South 76° 17' 06" East, 318.47 feet; thence North 80° 54' 38" East, 85.6 5 feet; thence North 72° 36' 03" East 330.41 feet; thence North 82° 11' 38" East, 370.72 feet; thence South 74° 25' 36" East 456.94 feet; thence North 58° 21' 03" East, 439.01 feet to the true point of beginning.

PARCEL TWO:

A non-exclusive easement appurtenant to Parcel 1 above described for pedestrian and vehicular ingress and egress purposes; public utility purposes; drainage, storm and sanitary sewer purposes and fire and emergency vehicle access purposes on, over, under and across the following described parcel of real property:

Beginning from reference at the most Northerly corner of that certain parcel of land granted to the City of Novato, by Deed recorded September 11, 1968 in [Book 2239 of Official Records at Page 176](#), Marin County Records and the beginning of a 126.00 foot radius curve, the radius point of which bears North 85° 48' 12" East; thence along the exterior line of said 2239 OR 176 the following courses and distances; Southerly along said curve, through a central angle of 4° 30' 46", an arc distance of 9.92 feet to the point of compound curvature of a 33.19 foot radius, tangent curve to the left; thence along said curve through a central angle of 49° 21' 16", an arc distance of 28.59 feet to the point of reverse curvature of a 50.00 foot radius, tangent curve to the right and thence along said curve, through a central angle of 111° 56' 04", an arc distance of 97.68 feet to the true point of beginning, being the North end point of a 175.00 foot radius curve, the radius point of which bears South 76° 08' 44" East; thence leaving said exterior line of 2239 O.R. 176, Southerly along said curve through a central angle of 32° 44' 26", an arc distance of 100.00 feet; thence South 71° 06' 50" West, 100.00 feet to the beginning of a 275.00 foot radius curve, the radius point of which bears North 71° 06' 50" East; thence Northerly along said curve through a central angle of 30° 41' 42", an arc distance of 147.33 feet to a point on the Easterly line of that land granted to the State of California by Deed recorded February 3, 1961 in [Book 1433 of Official Records at Page 353](#), Marin County Records: thence along said Easterly line,

North 23° 07' 24" East, 1.33 feet to a point on said exterior line of 2239 O.R. 176; thence leaving said Easterly line of 1433 O.R. 353, along said exterior line of 2239 O.R. 176, South 66° 52' 36" East, 53.97 feet to the beginning of a 50.00 foot radius, tangent curve to the left and then e along said curve, through a central angle of 59° 15' 10", an arc distance of 51.71 feet to the true point of beginning.

PARCEL THREE:

A non-exclusive easement appurtenant to Parcel 1, above described for vehicle turn around purposes on, over and across the following described parcel of real property:

Beginning for reference at a found open 2 inch iron pipe accepted as that monument shown on Record of Survey filed July 10, 1969 in Book 8 of Surveys, at Page 57, Marin County Records, as being the corner common to the Rancho San Jose and the Rancho San Pedro Santa Margarita Y Las Gallinas; said point being designated "S.J.1", as shown upon that certain plat entitled, "Plat of Rancho San Jose, July 1858", filed for record in Book A of Patents on Page 1, Marin County Records; said point being the Northwest corner of Survey No. 5 in Township 2 North, Range 6 West, Mount Diablo Meridian; thence along the boundary of said Rancho San Jose and the Westerly line of said 8 O.S. 57, North 31° 38' 57" West, 141.51 feet; thence leaving said Rancho boundary and said Westerly line of 8 O.S. 57, North 58° 21' 03" East, 56.66 feet; thence North 32° 14' 43" West, 112.90 feet to the true point of beginning; thence North 56° 52' 57" East 39.54 feet to the beginning of a 45.59 foot radius, tangent curve to the left; thence along said curve, through a central angle of 222° 19' 36", an arc distance of 176.90 feet; thence South 14° 33' 21" West 52.70 feet; thence South 36° 18' 57" East 43.88 feet; thence North 56° 52' 57" East, 27.67 feet to the true point of beginning.

PARCEL FOUR

A non-exclusive easement appurtenant to Parcel I above described for drainage purposes on, over, under and across the following described parcel of real property:

A 20 foot wide strip of land lying 10 feet either side of the following described line:

Beginning for reference at a found open 2 inch iron pipe accepted as that monument shown on Record of Survey filed July 10, 1969 in Book 8 of Surveys at Page 57, Marin County Records, as being the corner common to the Rancho San Jose and the Rancho San Pedro Santa Margarita Y La Gallinas; said point also being designated "S.J.1", as shown upon that certain plat entitled, "Plat of Rancho San Jose, July 1858", filed for record in Book A of Patents on Page 1, Marin County Records; said point being the Northwest corner of Survey No. 5 in Township 2 North, Range 6 West, Mount Diablo Meridian; thence along the boundary of said Rancho San Jose and the Westerly line of said 8 O.S. 57, North 31° 38' 57" West, 687.55 feet to the true point of beginning; said point being on the approximate centerline of an existing drainage ditch; thence along said approximate ditch centerline, North 78° 33' 04" East, 493.10 feet to a point on the Westerly right of way line of the Northwestern Pacific Railroad Company, a California corporation, as described by Deed recorded May 15, 1908 in [Book 114 of Deeds, at Page 376](#), Marin County Records.

The sidelines of this easement shall be lengthened or shortened to intersect said Westerly line of 8 O.S. 57 and said Westerly right of way line of 114 Deeds 376.

APN: 155-400-03

155-400-05

EXHIBIT B
PERMITTED ENCUMBRANCES

IRREVOCABLE REFUNDING INSTRUCTIONS

These IRREVOCABLE REFUNDING INSTRUCTIONS (these "Instructions"), are dated December 19, 2012, and are given by the CITY OF NOVATO, a municipal corporation organized and existing under the laws of the State of California (the "City"), to U.S. BANK NATIONAL ASSOCIATION (as successor to First Trust of California, National Association), a national banking association organized and existing under the laws of the United States of America, as trustee for the hereinafter described 1997 Senior Bonds (the "1997 Trustee").

BACKGROUND:

1. The City currently owns and operates a mobile home park known as the Marin Valley Mobile Country Club Park (the "Park").

2. The Park was initially acquired by the Novato Financing Authority (the "NFA") through the issuance by the California Local Government Finance Authority ("CLGFA") of its Senior Revenue Bonds, Series 1997A (Marin Valley Mobile Country Club Park Acquisition Project) (the "1997 Senior Bonds") and its Subordinate Revenue Bonds, Series 1997B (Marin Valley Mobile Country Club Park Acquisition Project) (the "1997 Subordinate Bonds") pursuant to a Trust Indenture dated as of March 1, 1997 (the "1997 Indenture") between the CLGFA and First Trust of California, National Association, as succeeded by U.S. Bank National Association, as trustee (the "1997 Trustee").

3. The proceeds of the 1997 Senior Bonds and the 1997 Subordinate Bonds were loaned by the CLGFA to the NFA pursuant to a Loan Agreement dated as of March 1, 1997 (the "1997 Loan Agreement") among the CLGFA, the NFA and the Park Acquisition Corporation of the Marin Valley Mobile Country Club, and the NFA used the proceeds of such loan to, among other things, to acquire the Park and make certain improvements thereto.

4. The 1997 Subordinate Bonds have previously been paid in full, and no 1997 Subordinate Bonds remain outstanding.

5. On March 11, 2011, the NFA transferred title in the Park to the City, and the City now has fee simple title in the property comprising the Park.

6. In connection with such transfer, the City assumed all of the NFA's obligations under the 1997 Loan Agreement and the other Mortgage Loan Documents (as such term is defined in the 1997 Indenture) pursuant to an Assignment and Assumption Agreement (Marin Valley Mobile Country Club) dated as of March 10, 2011 between the NFA and the City.

7. The City now desires to refinance its obligations under the 1997 Loan Agreement and to discharge its obligations under all of the Mortgage Loan Documents, as such obligations relate to the 1997 Senior Bonds, and, to that end, is entering into a Loan Agreement dated as of December 1, 2012 (the "2012 Loan Agreement") with the Bank of Marin (the "Bank") with the intent of applying a portion of the proceeds provided

hereunder, together with certain other funds of the City, to establish an irrevocable escrow with the 1997 Trustee to redeem all of the outstanding 1997 Senior Bonds on January 22, 2013.

8. The City wishes to give these Instructions to the 1997 Trustee for the purpose of establishing an irrevocable Escrow Fund to be funded, invested, held and administered for the purpose of providing for the payment and prepayment in full of the 1997 Loan Agreement and corresponding payment and redemption in whole of the outstanding 1997 Senior Bonds.

I N S T R U C T I O N S :

In order to provide for the payment and prepayment of the 1997 Loan Agreement and the corresponding payment and redemption in whole of the 1997 Senior Bonds, the City hereby irrevocably directs the 1997 Trustee as follows:

SECTION 1. *Prepayment of 1997 Loan.* The City hereby is electing to prepay the 1997 Loan in whole by delivering to the Trustee the amounts set forth in Section 3 below for deposit in the Escrow Fund. Upon delivering such amounts to the Trustee, the Loan will be paid in whole, and the 1997 Loan Agreement will be discharged in full.

SECTION 2. *Establishment of Escrow Fund.* The 1997 Trustee is directed to establish an escrow fund (the "Escrow Fund") into which shall be deposited the moneys representing the prepayment of the 1997 Loan in the amounts set forth in Section 3 below. The amounts deposited into the Escrow Fund shall to be held by the 1997 Trustee in trust as an irrevocable escrow securing the redemption in whole of the 1997 Senior Bonds. All cash and securities in the Escrow Fund are hereby irrevocably pledged as a special fund for the redemption in whole of the 1997 Senior Bonds in accordance with Section 4.01(b) of the 1997 Indenture.

If at any time the 1997 Trustee receives actual knowledge that the cash and securities in the Escrow Fund will not be sufficient to make any payment required by Section 4, the 1997 Trustee shall notify the City of such fact and the City shall immediately cure such deficiency from any source of legally available funds. The 1997 Trustee has no liability for any such insufficiency.

All funds and Government Securities on deposit in the Escrow Fund will be held by the 1997 Trustee for the sole and exclusive benefit of the holders of the 1997 Senior Bonds. Neither the CLFGA or the City shall have any right of withdrawal with respect to the Escrow Fund. The 1997 Trustee will apply the funds on deposit in the Escrow Fund strictly in compliance with these Instructions and shall not follow any instructions to the contrary given by the CLFGA or the City with respect to the Escrow Fund.

SECTION 3. *Deposit into Escrow Fund.* On December 19, 2012 (the "Closing Date"), the City shall cause to be transferred to the 1997 Trustee for deposit into the Escrow Fund the amount of \$_____ in immediately available funds, representing a portion of the proceeds of the Loan (as such term is defined in the 2012 Loan Agreement). Additionally, the 1997 Trustee shall transfer to the Escrow Fund, from the funds and accounts established under the 1997 Indenture, the following amounts (totaling \$_____):

<u>Fund or Account</u>	<u>Amount</u>
Senior Bonds Interest Account	\$
Senior Bonds Principal Account	
Senior Debt Service Reserve Fund	
Senior Cashtrap Account	

Accordingly, the total amount on deposit in the Escrow Fund on the Closing Date will be \$_____.

The City hereby certifies that amounts on deposit in the Escrow Fund constitute Available Moneys, as such term is defined in the 1997 Indenture.

SECTION 4. *Application of Amounts.* The 1997 Trustee shall hold \$_____ of the amounts deposited with it in the Escrow Fund in cash, uninvested, and shall use the remaining \$_____ to purchase [Government Securities] maturing on January __, 2013, the date of redemption in whole of the 1997 Senior Bonds, as provided below.

The 1997 Trustee shall not sell, transfer, otherwise dispose of or cause to be redeemed prior to maturity any Government Securities in the Escrow Fund. The 1997 Trustee shall make no further investment or reinvestment of the Escrow Fund except as may be provided in this Section 4.

On January __, 2013, the 1997 Trustee shall use the funds held in the Escrow Fund to redeem the 1997 Senior Bonds in whole, as follows:

<u>Redemption Date</u>	<u>Interest</u>	<u>Maturing Principal</u>	<u>Principal to be Redeemed</u>	<u>Redemption Premium</u>	<u>Total Redemption Price</u>
January 22, 2013	\$_____	\$0.00	\$_____	\$ 0.00	\$_____

The Trustee hereby confirms and certifies that as of the date hereof the outstanding principal amount of the 1997 Senior Bonds is \$_____, and the total amount needed to redeem the 1997 Senior Bonds in full on January 22, 2013 is \$_____.

Following payment and redemption in full of all of the 1997 Senior Bonds on January 22, 2013, the 1997 Trustee shall withdraw all amounts remaining on deposit in the Escrow Fund and transfer such amounts to the City.

SECTION 5. *Proceedings for Prepayment of 1997 Loan Agreement and Redemption In Whole of 1997 Senior Bonds.* The City hereby elects and irrevocably signifies its election to prepay the 1997 Loan Agreement in full under Section 4.05 of the 1997 Loan Agreement as of December 19, 2012, and irrevocably signifies its election to redeem the 1997 Senior Bonds in full on January 22, 2013 under Section 4.01(b) of the 1997 Indenture. The City irrevocably directs the 1997 Trustee to, and the 1997 Trustee shall, give notice of the redemption of the 1997 Senior Bonds in accordance with Section 4.04 of the 1997 Indenture at the expense of the City.

In connection with the prepayment of the 1997 Loan Agreement and the redemption of the 1997 Senior Bonds, the City, on the Closing Date, is causing a portion of the proceeds of the Loan (as defined in the 2012 Loan Agreement) in the amount of \$ _____ to be paid to Assured Guaranty Municipal Corp. (the "Bond Insurer"), as successor to Financial Security Assurance Inc., as payment in full of amounts owed to the Bond Insurer under the Mortgage Loan Documents and legal fees related to the Mortgage Loan Documents and the transactions described herein. The City acknowledges that the Bond Insurer's receipt of such payment is a precondition to the Bond Insurer consenting to the redemption of the 1997 Senior Bonds on January __, 2013, as required by the 1997 Indenture.

Upon the payment of the amounts set forth in the preceding paragraph, the City certifies that it will have paid all fees and expenses due and owing under the Loan Agreement and the other Mortgage Loan Documents.

SECTION 6. *Transfer of Existing Funds.* The 1997 Trustee shall make the transfer into the Escrow Fund from the funds and accounts established under the 1997 Indenture as set forth in Section 3, such transfer to be made on the Closing Date. All other amounts held by the 1997 Trustee in any of the funds and accounts established under the 1997 Indenture shall be withdrawn therefrom and transferred to the City as its property free and clear of the lien of the 1997 Indenture and the 1997 Loan Agreement.

SECTION 7. *Application of Certain Terms.* All of the terms of the 1997 Loan Agreement relating to the payment and prepayment of the 1997 Loan Agreement, and all of the terms of the 1997 Indenture relating to the redemption of the 1997 Senior Bonds, are incorporated in these Instructions as if set forth in full herein.

SECTION 8. *Compensation to 1997 Trustee.* The City shall pay the 1997 Trustee full compensation for its services under these Instructions, including out-of-pocket costs such as publication costs, redemption expenses, legal fees and other costs and expenses relating hereto and, in addition, all fees, costs and expenses relating to the purchase, substitution or withdrawal of any securities after the date hereof. Under no circumstances shall amounts deposited in or credited to the Escrow Fund be deemed to be available for said purposes. The 1997 Trustee has no lien upon or right of set off against the cash and securities at any time on deposit in the Escrow Fund. The City's failure to compensate the 1997 Trustee as provided in this Section 8 shall not permit the 1997 Trustee to resign its duties hereunder or under the 1997 Indenture.

The Trustee hereby certifies that it has been its fees in full under these Instructions and the 1997 Indenture.

SECTION 9. *Rights, Liabilities and Duties of 1997 Trustee.* All of the protections, immunities and limitations from liability afforded the 1997 Trustee as trustee for the 1997 Senior Bonds are incorporated in these Instructions as if set forth in full herein. These Instructions set forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of the 1997 Trustee shall be inferred from the terms of these Instructions or any other agreement.

The 1997 Trustee agrees to remain as the trustee for the 1997 Senior Bonds and for all purposes of these Instructions and to perform the remaining duties specified in the 1997 Indenture and herein until the 1997 Senior Bonds have been redeemed in whole

These Instructions shall be irrevocable and the agreements herein set forth shall be strictly performed and enforced. These Instructions may not be amended or modified without the prior written consent of the Bond Insurer. The Bond Insurer is a third party beneficiary of these Instructions entitled to enforce the provisions of these Instructions as if a party hereto.

The CLGFA and the City each covenant that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such amendments hereto and such further acts, instruments and transfers as the 1997 Trustee reasonably may require to better assure and confirm unto the 1997 Trustee all rights and interest granted herein or to clarify, correct or remove any ambiguity with respect to the provisions of these Instructions.

SECTION 10. *Effect of These Instructions.* As a result of the deposit of in accordance with these Instructions, the obligations of the City under the 1997 Loan Agreement are discharged.

SECTION 11. *Execution in Counterparts.* These Instructions may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 12. *Governing Law.* These Instructions shall be governed by and construed in accordance with the laws of the State of California.

Date: December __, 2012

CITY OF NOVATO

By _____

**CALIFORNIA LOCAL GOVERNMENT
FINANCE AUTHORITY**

By _____

ACCEPTED:

**U.S. BANK NATIONAL
ASSOCIATION, as 1997 Trustee**

By _____
Authorized Officer

The undersigned hereby consents to the City's prepayment of the 1997 Loan Agreement and the redemption of the 1997 Senior Bonds, but only upon the terms and conditions provided in these Instructions. Further, the undersigned certifies that upon receipt of the amount specified in Section 5, it will have received all amounts due and owing to Assured Municipal Guaranty Corp. (including legal fees) under the Mortgage Loan Documents.

**ASSURED MUNICIPAL GUARANTY
CORP.**

By _____
Authorized Officer