

TERM SHEET

IGNACIO PARTNERS

I Purpose

1. This Term Sheet (including the exhibits hereto) represents the "best and final" offer of IGNACIO PARTNERS (herein "DEVELOPER") resulting from meetings with City Staff and Consultants during the "best and final offer" phase with the three finalist development teams pursuant to the Request for Master Developer Proposals, Hamilton Army Airfield Property, City of Novato, March 1999 ("RFP").

2. If DEVELOPER is selected as the master developer, DEVELOPER agrees:

- a. to be bound by the provisions and requirements of this Term Sheet which (together with other technical, clarifying and conforming changes) shall be incorporated, as applicable, into the proposed Agreement for Purchase and Sale ("PSA") with the Novato Public Finance Authority ("Authority"), the Development Agreement ("Development Agreement") with the City of Novato ("City") and the Owner Participation Agreement ("OPA") with the Novato Redevelopment Agency ("Agency") (the PSA, the Development Agreement, the OPA and their respective exhibits and attachments are collectively referred to as the "Transaction Documents"); provided, however, that the parties hereto acknowledge that (1) the Transaction Documents all require further negotiation and modification to accommodate, among other matters, changes in the terms of the offering by the Authority, the Agency and the City, and (2) most of the exhibits and attachments to the Development Agreement and the OPA remain to be negotiated and drafted, including, without limitation, a tax allocation agreement; and
- b. subject to events of *force majeure*, to execute each of the Transaction Documents, as modified, on its behalf, in a form approved for submission by the City Manager, and submit to City officials for processing for approval in accordance with the following schedule (as City officials may modify from time to time in the exercise of their reasonable discretion):

- (i) Subject to negotiation and modifications as agreed to by the parties, not later than October 7, 1999: DEVELOPER shall submit to the City Manager the PSA with the Authority, the Development Agreement with the City, and the OPA with the Agency, executed on behalf of DEVELOPER, in form approved for submission by the City Manager, as constituting the proposal of DEVELOPER consistent with the provisions of this Term Sheet.
- (ii) October 12, 1999: Selection by City, Authority, and Agency of master developer.
- (iii) October 18, 1999: Public hearing on Transaction Documents and related matters by Novato Planning Commission.
- (iv) October 26, 1999: Joint public hearing on agreements and related matters by City, Authority and Agency.
- (v) November 9, 1999: Final actions and approvals on agreements and related matters by City, Authority and Agency.
- (vi) November 10, 1999: Submission of DEVELOPER'S escrow deposit.
- (vii) November 10, 1999 to December 12, 1999: Escrow instructions and pre-closing escrow documents completed.
- (v) December 14, 1999: Pre-closing of Escrow.
- (vi) December 15, 1999: Payment in full of \$8,130,000 purchase price by DEVELOPER. Close of Escrow.

3. If DEVELOPER is selected as the master developer, City staff will submit and process the approval of the Transaction Documents as modified in accordance with the provisions of this Term Sheet. However, DEVELOPER understands and agrees that during the process of obtaining final approvals of the Transaction Documents and related matters City staff may request additional clarifying changes or conditions to said documents in response to questions or requests by members of the City Council, Authority, Redevelopment Agency, Planning Commission or City officials. DEVELOPER shall cooperate in good faith with City staff to consider such changes in the documents and shall not withhold its approval or consent to such changes unless, in the exercise of its

reasonable discretion, DEVELOPER determines that such changes would have a material adverse impact on DEVELOPER'S proposal.

4. If DEVELOPER is selected as the master developer and the Transaction Documents receive final approvals, this Term Sheet shall remain in effect until the Close of Escrow. In the event that for any reason other than DEVELOPER failure to accept title and pay the purchase price for the Property, Close of Escrow is delayed beyond December 15, 1999, this Term Sheet shall remain in effect until the earliest to occur of: (a) Close of ESCROW, or (b) April 15, 2000.

5. If DEVELOPER is not selected as the master developer, this Term Sheet shall remain in effect until the Close of Escrow or, at the sole option of City staff in the event that final documents are not approved and entered into with the selected master developer, for a period of not more than 120 days following the date of November 9, 1999, or such longer period as shall be agreed to by DEVELOPER, provided, however, that Developer shall have 30 days' notice to close escrow and shall be advised, at the time such notice is given (1) of the reason or reasons why the Transaction Documents were not entered into with the selected developer, (2) of any changes in the terms of the transaction, and (3) of any new issues, facts or circumstances that have arisen or been discovered by the City, the Authority or the Agency. If in the reasonable judgement of the DEVELOPER, such changes in the transaction are material, it may terminate its commitments under this Term Sheet.

6. DEVELOPER understands and agrees that the prohibitions in paragraph 5 on page 12, and in the fifth "bullet" paragraph on page 29 of the RFP against unauthorized contact with City officials and others involved in the selection process to influence the selection or approval process outside of City sponsored or City approved meetings or presentations remain in effect and that violation of such prohibitions may lead to disqualification of DEVELOPER. Authority, Agency and City agree that as of the date of this Term Sheet, Developer has not engaged in any conduct which would lead to its disqualification. DEVELOPER also understands and agrees that, except as clarified under this Term Sheet, all other provisions in the RFP, including but not limited to the "Conditions of Offer" on pages 11 through 14, inclusive, and "Selection Procedure" on pages 28 and 29, remain applicable to the selection of a master developer and the processing of approvals of agreements and other documents pursuant to the provisions of this Term Sheet.

7. DEVELOPER agrees that except as publicly disclosed in this Term Sheet, the PSA, Development Agreement, OPA and City staff presentations, all matters and documents considered or discussed with City staff and consultants during the "best and final" offer phase of the master developer selection process under the RFP shall remain

confidential (being necessary to protect the interests of all developers during the developer selection process).

II. PROPOSAL: CLARIFICATIONS; MODIFICATIONS

1. Mandatory Requirements. In the acquisition, ownership, use and development of the Property to be acquired by the DEVELOPER (the "Property"), DEVELOPER shall comply with all applicable requirements of the Reuse Plan, the Approved Offer to Purchase with the Navy, and the Hamilton Field Redevelopment Plan. DEVELOPER understands that the amendment to the Hamilton Field Redevelopment Plan adding additional area to the Redevelopment Project Area in addition to the Property may or may not be implemented for any period in the sole discretion of the City and Agency. There shall be no further amendments to the Redevelopment Plan which would materially adversely affect the Property and DEVELOPER's ability to develop it without the express written consent of DEVELOPER, which consent shall not be unreasonably withheld.

2. DEVELOPER'S Proposal. Ownership and development of the Property, and all applications for entitlements, shall be consistent with the proposal of DEVELOPER submitted on June 9, 1999, in response to the RFP, as modified by the written responses of DEVELOPER to clarifications requested by City staff and consultants prior to the selection of DEVELOPER as one of three finalists on August 3, 1999 (copies of said proposal and written responses are on file with the City Clerk as well as certain information submitted as confidential and maintained by Keyser Marston Associates, Inc. collectively herein the "Proposal"), subject to the following modifications and clarifications resulting from the best and final offer phase.

3. Developer Identity: Team Members; Legal Relationships.

- a. The identity of DEVELOPER, its legal composition, responsible parties, team members and their relations are set forth in the Proposal.
- b. Notwithstanding anything to the contrary in the Proposal:
 - (i) The managing members of DEVELOPER, Lennar Homes of California, Inc. and Brookfield Homes Bay Area Inc. shall be the sole members of DEVELOPER liable for the performance of all obligations of the developer under the Transaction Documents;

- (ii) the parent companies of Lennar Homes of California, Inc. and Brookfield Homes Bay Area Inc., Lennar, Inc. and Brookfield Homes Inc., respectively, shall guarantee, at the time of final execution of the Transaction Documents, the performance of DEVELOPER under the Transaction Documents in form and content reasonably acceptable to the Authority, City and Agency, as the case may be; and
- (iii) DEVELOPER and each of its members shall have the right to transfer all or any portion of the Property, and assign all or any portion of its rights under the Transaction Documents, to any person if (x) the transferee is a controlled affiliate of a member of DEVELOPER, or (y) has experience developing or operating projects reasonably related to those contemplated under the Transaction Documents and has an appropriate net worth or DEVELOPER is a general partner or managing member in such transferee, or (z) subject to the reasonable approval of the Authority, City and Agency, to any transferee that does not meet the criteria of (x) or (y) above so long as DEVELOPER remains liable to satisfy the obligations of the Transaction Documents.

4. Requirements Applicable to the Property. Notwithstanding anything to the contrary in the Proposal, the ownership, demolition, development, operation and maintenance of the Property shall conform to the following requirements:

a. Maintenance and Security Pending Development:

- (i) Following Close of Escrow and before demolition and site preparation, DEVELOPER, Authority, Agency and City shall agree on a plan reasonably calculated to maintain adequate security and protection of the Property to prevent vandalism, nuisance, hazards, and other conditions adversely affecting the appearance, maintenance and condition of the Property and the improvement therein.
- (ii) Following Close of Escrow and before demolition and site preparation, DEVELOPER, Authority, Agency and City shall agree on a plan to provide watering and landscaping treatment to maintain existing trees and landscaping along Ignacio Boulevard and in other areas of the Property. DEVELOPER,

Authority, Agency and City shall also agree on a plan to enhance the appearance of Ignacio Boulevard pending demolition and construction.

- (iii) During the entitlement process, DEVELOPER will design the development of the Property to maintain as many existing trees on the Property as reasonably feasible in accordance with approved plans.

b. Demolition.

- (i) Prior to completion of City approval of a precise development plan and tentative map for Rafael Village, DEVELOPER will prepare and process an application for a demolition permit for existing housing in Rafael Village, and, subject to events of *force majeure*, shall commence demolition of existing improvements and infrastructure in Rafael Village not later than 90 days following the end of all challenge periods for the approval of a precise development plan and tentative map for Rafael Village and shall complete demolition of such improvements in Rafael Village by not later than 180 days following commencement. A schedule for removal of the infrastructure will be negotiated during the entitlement phase.
- (ii) During the entitlement process, DEVELOPER will prepare and submit to the City for approval a phased demolition plan for existing improvements and infrastructure in Capehart/Hillside and other areas of the Property. All Capehart units will be demolished. Hillside units may also be demolished in the discretion of the DEVELOPER.
- (iii) During the entitlement process, DEVELOPER will prepare and submit to the City for approval a recycling plan to achieve, to the maximum extent possible, the goal of at least 70% recycling of products from demolition and site clearance.

c. Minimum Lot Sizes:

- (i) To provide compatibility with surrounding neighborhoods, DEVELOPER will develop Rafael Village in accordance with the minimum lot sizes shown on the map attached as Exhibit A hereto.

(ii) Lot sizes for Capehart/Hillside and other areas of the Property will conform to applicable requirements of the Reuse Plan and precise development plans approved by the City.

d. Minimum Number of Allowed Units:

The number of single family lots in Rafael Village, in addition to up to 90-100 units of senior housing, shall be established in a precise development plan as approved by the City, not to exceed a maximum of 387 single family lots (the 404 maximum number of lots allowed by the Reuse Plan, adjusted for subdivision plotting Inefficiencies); provided the DEVELOPER shall be entitled to a minimum number of 315 lots subject to capacity and topography of the Rafael Village portion of the Property to accommodate and comply with the City's standard subdivision requirements.

In the Capehart and Hillside areas, DEVELOPER shall be entitled to a minimum of 615 units, not including any transitional units. The total number of units will not exceed 648, not including any transitional units..

e. Community Facilities:

In general, new community facilities will not be provided in light of the City's desire to maximize the improvement and use of community facilities already existing at Hamilton Field. DEVELOPER will pay full development fees in effect at the time the Transaction Documents are executed, in lieu of providing community facilities. Except for cost of living increases, DEVELOPER shall have no obligation to pay any new or increased development fees or exactions imposed during the 10-year period following recordation of the first final map.

f. Neighborhood Parks: Open Space:

In general, neighborhood parks will be privately developed and maintained. Open spaces under the control and jurisdiction of other agencies are expected to remain under their control and jurisdiction. The City will, in the exercise of its reasonable discretion, consider acceptance of offers of dedication of open space to be left in its natural condition provided the City is satisfied as to the level of cost

or potential liability, if any, associated with such dedication. The parties acknowledge that the amount of any DEVELOPER payments to the City is predicated on the City accepting and maintaining such parcels. If the City is unable or unwilling to accept such dedication, the parties agree that DEVELOPER's impact mitigation fees shall be subject to recalculation.

g. Formation and Responsibilities: Neighborhood Association.

- (i) A neighborhood association will be formed for Rafael Village, if necessary, to maintain neighborhood facilities and private open space. The formation and bylaws of the association and its responsibilities shall be subject to the reasonable approval of the City.

- (ii) A neighborhood association will be formed for the Capehart for-sale areas to maintain neighborhood facilities and private open space and to assure uniform exterior maintenance and appearance of the residential for-sale units. A neighborhood association may or may not be formed for the Capehart/Hillside rental areas, in the DEVELOPER's discretion. In the event an association is not formed, the owner of the rental units will maintain neighborhood facilities and private open space and will assure uniform exterior maintenance and appearance of the residential rental units. To assure such uniform standards and enforceability, CC & Rs will be negotiated and executed between the association formed for the Capehart for-sale areas and owner of the Capehart/Hillside rental areas. The formation and by-laws of any association and its responsibilities shall be subject to the reasonable approval of the City.

h. Seniors Housing:

The senior units in Rafael Village will not contain any assisted living units. Not less than 90 nor more than 100 senior units will be allowed. These units, at DEVELOPER'S discretion, may be either rental or ownership units. (DEVELOPER acknowledges that the neighborhood has indicated a preference for ownership units). At least a number of senior units equal to 15% of all units approved in a precise development plan for Rafael Village shall be deed restricted for moderate income households.

i. Coordination with Transitional Housing:

- (i) It is contemplated the Property, as conveyed from the Navy to the Authority and simultaneously from the Authority to DEVELOPER will exclude 60 described units in the Capehart/Hillside areas for transitional housing and that concurrently or following the conveyance of the Property, the 60 transitional units will be separately conveyed to the Authority. It is also contemplated that following the recording of a final subdivision map for the Capehart/Hillside areas, DEVELOPER and the Authority will transfer and convey between them the land or lots required to relocate the 60 transitional units within the Property boundaries as shown on the final subdivision map. DEVELOPER will cooperate with the Authority to implement this process of reconfiguring the final location of the 60 transitional units.
- (ii) Consistent with the terms of the RFP (paragraph 7 on pages 6 and 7 of the RFP), DEVELOPER will be responsible for constructing the infrastructure to serve the transitional units and renovating [or constructing new] transitional units. Renovation [or new construction) and infrastructure costs for the transitional units will be funded entirely by public and private subsidy sources and will not be the responsibility of the DEVELOPER. Assuming the subsidy funding is available without undue delay or restrictions, the master developer will develop the transitional units simultaneously with the adjoining Capehart and Hillside units.

DEVELOPER will not be required to install any infrastructure or make any other improvements related to the transitional units until funding is available to the City or the transitional housing developer and irrevocably committed to the reimbursement of the costs of such improvements. If the timing of the installation of the transitional infrastructure or improvements requires the expenditure of any funds to cover any financing or carrying costs, such costs shall be included in the reimbursement to the DEVELOPER.

- (iii) During the entitlement process, DEVELOPER will consult with the City and, through the City, with the transitional

housing developer to locate the transitional housing units in logical building clusters so that they can be constructed when subsidy funding is available to pay all allocable costs (including infrastructure costs) for such transitional housing. The City shall retain final approval rights over the locations of the transitional units provided the locations shall not prevent DEVELOPER from proceeding with its logical and phased development of the affordable rental housing units in the Capehart and Hillside areas. DEVELOPER and City will locate the 60 transitional units within the rental housing areas as defined by the approved final subdivision map for the Capehart and Hillside areas.

- (iv) The transitional housing units will be designed to design standards comparable to the affordable rental housing units, and will be constructed by the DEVELOPER when subsidy funding is available. During the entitlement process, DEVELOPER, in consultation with the City and, through the City, with the affordable housing developer, will develop and submit to the City for its approval a construction management plan for the transitional units which shall include the allocation of costs (including infrastructure costs) for the transitional housing, the commitment of DEVELOPER to construct said transitional units, in phases, as subsidy funding is available promptly and without restrictions, and other matters necessary to achieve the transitional housing units consistent with DEVELOPER's program of development of the affordable rental housing in the Capehart and Hillside areas.
- (v) DEVELOPER acknowledges and agrees that the Authority will own transitional housing lots but that ownership of the transitional housing units may be with transitional housing developer as lessee of the lots and that the terms of such arrangements between the Authority and such transitional housing developer shall be determined by the Authority in its sole and absolute discretion.
- (vi) During the entitlement process DEVELOPER, in consultation with the City and, through the City, with the transitional housing developer, will prepare and submit to the City for its approval a management plan to include the transitional housing

units under the management, operations, lease requirements and rules and regulations of the Capehart and Hillside rental areas. The management plan will provide for, among other matters, the maintenance of all open space, landscaped areas, private neighborhood facilities, building exteriors, use restrictions, and the apportionment and payment of costs therefor. The management plan will also provide for the integration of the transitional housing units into the management and operations of the Capehart and Hillside rental housing areas.

j. Housing Preferences:

During the entitlement process DEVELOPER will prepare and submit to the City for approval, subject to applicable legal requirements, a plan to implement the housing preference set forth the fourth "bullet" paragraph on page 9 of the RFP.

k. San Pablo Site:

The San Pablo Site may be developed for not less than 19 nor more than 22 market rate dwelling units subject to approvals obtained during the entitlement process. The City shall cooperate with the DEVELOPER to obtain the one foot strip along the Site at reasonable cost, and the City acknowledges that the cost of such acquisition will affect the DEVELOPER'S pro forma..

l. Exchange Triangle:

Subject to suitable market conditions, the Exchange Triangle Site shall be developed for commercial use as a retail center serving both the local residential population and the adjacent community facility and civic uses, subject to the approvals obtained during the entitlement process. The City, Authority and Agency acknowledge that their inability to transfer the parcel (or any material delay in transferring the parcel) will have an impact on DEVELOPER'S pro forma.

5. City Reimbursements; Payments. Notwithstanding anything to the contrary in the Proposal, the requirements of the Reuse Plan that the development, and maintenance of the Property be undertaken with assurances to the City that the City will not incur municipal deficits or unrecovered costs as a result of such development, shall be

implemented and deemed satisfied by the payments to be made in the amounts calculated and at the times set forth in Exhibit B hereto.

5a. City Participation. DEVELOPER, in addition to the funds provided to the to the City as outlined in Exhibit B, offers to the City a profit participation on the non-senior homes built in Raphael Village. The profit participation is more particularly described in Exhibit F hereto. In the event the City cannot enter into an agreement to participate in this manner, this component of the Term Sheet should be disregarded.

6. Agency Financial Assistance:

- a. To make it economically feasible for DEVELOPER to develop the Property in accordance with its Proposal and the provisions of this Term Sheet, including meeting the affordable housing goals of the Reuse Plan, and thereby induce DEVELOPER to proceed with the planning and development of the Property, the Agency will commit the net tax increments available to the Agency from the Hamilton Field Redevelopment Project to DEVELOPER as set forth in the public finance section of Exhibit D hereto; provided that portion of the net tax increment required to be deposited into the Agency' Low and Moderate Income Housing Fund for the Hamilton Field Redevelopment Project will be utilized to assist in achieving the affordable housing goals for the Reuse Plan. Net tax increment available to the Agency shall be determined by the Agency in accordance with the terms of the Settlement Agreement between the City, Agency, and County of Marin ("County"). Net tax increment shall be exclusive of an annual amount equal to \$100,000 per year (escalation at the rate of 3.5 percent per year) to be retained by the Agency for its costs of managing the Redevelopment Project.
- b. Subject to economic feasibility and satisfaction of legal and marketing conditions, as determined by the Agency, DEVELOPER may request that the Agency use its best good faith efforts to issue Agency bonds secured by future tax increment revenues to provide proceeds for the Agency's payments or reimbursement to DEVELOPER.
- c. It is contemplated that during the entitlement process, a more detailed plan of public financing, including the establishment of a Mello-Roos Community Facilities District, is to be agreed upon by DEVELOPER

and the Agency to implement the forgoing requirements in subsection (a) and (b).

7. Construction Requirements:

a. ADA Compliance.

DEVELOPER will design, construct, rehabilitate and provide for the operation of improvements to the Property in compliance with the requirements of the Americans with Disabilities Act (ADA) and all other requirements of applicable federal and state laws. During the entitlement process DEVELOPER will prepare and submit to the City for approval a plan to provide for and meet disabled access and adaptability requirements imposed by state and federal law.

b. Prevailing Wages:

DEVELOPER will pay prevailing wages as required by applicable federal and state laws.

c. Labor - Subcontractor Outreach Programs:

During the entitlement process, DEVELOPER shall prepare and submit to the City for its approval an outreach and monitoring program to assure the persons and subcontractors in the region of Marin and Sonoma Counties are informed of the availability of construction work and the opportunity to bid on construction work during the development of the Property, provided that DEVELOPER shall retain rights to exercise its good faith business judgment in the selection of employees and subcontractors based on their qualifications and the appropriateness of their bid.

d. Undergrounding of Utilities.

In satisfaction of the requirements of the Redevelopment Plan, all existing above-ground utilities will be placed underground and all new utilities will be placed underground, in conformance with City Development Standards and the requirements of the serving utility companies.

e. Phasing of Capehart and Hillside Units:

During the entitlement process, DEVELOPER will prepare and submit to City for its approval a construction phasing plan to condition the development of housing units in Rafael Village upon the development of a specified number of affordable housing units in the Capehart and Hillside areas, based on the issuance of building permits in the respective areas. The phasing plan shall assure that all of the Capehart and Hillside areas will be completed within a schedule coordinated with the completion of all of the housing units in Rafael Village and will provide for the withholding of building permits and tax increment payments from the Agency in order to assure that the coordinated schedule is maintained, subject to the availability of allocations from the State of California of mortgage revenue bond authority to finance the construction of the affordable rental housing units and to events of *force majeure*.

8. Schedule for Entitlements:

DEVELOPER will process entitlements for development of the Property in accordance with the schedule of target and default dates set forth in Exhibit C hereto. City will reasonably cooperate with DEVELOPER in meeting such schedule so that demolition, site preparation and commencement of development of the Property will not be unduly delayed.

9. Affordable Housing Plan:

During the entitlement process, DEVELOPER will prepare and submit to the City for its approval a detailed plan for the development, financing and operation of the affordable housing units in the Capehart and Hillside areas to achieve the affordable goals of the Reuse Plan. The affordable housing plan shall be consistent with the requirements and objectives set forth in Exhibit D hereto.

III. Conforming and Clarifying Changes to Agreements:

Conforming changes shall be made to the PSA, Development Agreement and OPA, to conform to the matters in this Term Sheet and to make other technical and clarifying changes mutually acceptable to DEVELOPER and City staff. A list of such confirming changes is set forth in Exhibit B hereto.

SUBMITTED:

DEVELOPER:
IGNACIO PARTNERS

LENNAR HOMES OF CALIFORNIA, INC.

Date: _October 4, 1999_____

By: _____

Its _____

BROOKFIELD HOMES BAY AREA INC.

By: _____

Its _____

EAH, INC.

By: _____

Mary Murtagh
Its Executive Director

ACCEPTED FOR PROCESSING BY CITY MANAGER

Date: _____

RODERICK J. WOOD,
City Manager
City of Novato