

bound by the provisions of this Agreement with respect to the other Parcels for which a Certificate has not been issued.

(iii) Seller shall not unreasonably withhold a Certificate of Completion. If Seller refuses or fails to furnish a Certificate of Completion within thirty (30) days after written request from Buyer or any entity entitled thereto, Seller shall provide a written statement of the reasons Seller refused or failed to furnish a Certificate of Completion. The statement shall also contain Seller's opinion of any further action Buyer must take to obtain a Certificate of Completion. If the reason for such refusal is confined to the immediate availability of specific items or materials for landscaping, or other minor so-called "punch list" items, Seller will issue its Certificate of Completion upon the posting of a bond or other security reasonably acceptable to Seller by Buyer with Seller in an amount representing one hundred fifty percent (150%) of the fair value of the work not yet completed.

(iv) A Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Buyer to any holder of a mortgage, or any insurer of a mortgage securing money loaned to finance the improvements, or any part thereof. Such Certificate of Completion is not notice of completion as referred to in the California Civil Code § 3093. Nothing herein shall prevent or affect Buyer's right to obtain a Certificate of Occupancy from the Seller before the Certificate of Completion is issued.

11.9 Use of the Site & Project; CC&Rs.

(a) *Use For Mixed Retail/Office/Hotel/Restaurant Businesses.* The Buyer covenants and agrees for itself, its successors, its assigns and every successor in interest that during construction and thereafter, that the Buyer and such successors and such assigns shall devote the Site to the uses specified therefore in the Project Concept Plan (Exhibit "D") or any other plans as may be approved by the City. Buyer further agrees to use, devote, and maintain the Site and each part thereof only for the following business uses:

- The approximate .77 acre Restaurant Parcel to be dedicated to the construction and operation of a single restaurant tenant.
- The approximate 1.85 acre Hotel Parcel to be dedicated to the construction and operation of a single hotel tenant.
- The approximate .78 acre General Retail Parcel to be dedicated to the construction and operation of a mixed retail and small restaurant complex.
- The approximate 1.85 acre Retail/Office Parcel to be dedicated to the construction and operation of a mixed retail and small offices complex.