

EXEMPT FROM RECORDER'S FEES
Pursuant to Government Code §§ 6103 and 27383

Recording requested by and when recorded return to:

City Clerk
City of Orange
300 East Chapman Avenue
Orange, CA 92866

(SPACE ABOVE FOR RECORDER'S USE)

FIRST AMENDMENT TO
AGREEMENT CONTAINING COVENANTS (INCLUDING RENTAL RESTRICTIONS)

by and between

CITY OF ORANGE
(Successor in Interest to ORANGE REDEVELOPMENT AGENCY)

and

F.C. ORANGE ASSOCIATES, LLC
(formerly F.C. ORANGE ASSOCIATES L.P.)
(Developer)

This FIRST AMENDMENT TO AGREEMENT CONTAINING COVENANTS (INCLUDING RENTAL RESTRICTIONS) ("First Amendment") is entered into as of this ____ day of _____, 2020, by and among the CITY OF ORANGE, a municipal corporation ("City"), and F.C. ORANGE ASSOCIATES, LLC, a California limited liability company (formerly F.C. ORANGE ASSOCIATES L.P., a California limited partnership) ("Developer") with reference to the following:

PART 1:
CONSENT TO SALE OF MEMBERSHIP INTERESTS OF PARTY TO AGREEMENT
CONTAINING COVENANTS (INCLUDING RENTAL RESTRICTIONS)

A. Recitals.

1. City's predecessor in interest (the Orange Redevelopment Agency), Developer and FC Orange, Inc. entered into an Agreement Containing Covenants (Including Rental Restrictions), Agreement No. 2467.4, dated October 1, 1995 ("Original Agreement"), attached hereto as Exhibit "A" and incorporated herein; and

2. FOREST CITY ASSUMED LOANS I HOLDINGS LLC, a Delaware limited liability company, and FCPM, Inc., a Maryland corporation (together the "Seller"), the members of Oracle-Wetmore Co., LLC, a Delaware limited liability company ("Oracle"), have agreed to sell their membership interest in Oracle to FFAH V THE KNOLLS LLC, a Delaware limited liability company, BLDG KNOLLS MANAGER LLC, a Delaware limited liability company and BLDG KNOLLS LLC, a Delaware limited liability company (together the "Buyer").

3. Oracle owns 100% of the membership interests in FC Orange Associates Member LLC which owns 100% of the membership interests of Developer. Concurrently with such sale, FC Orange Associates Member, LLC will be dissolved so that Oracle will own 100% of the interests of Developer. Immediately after such sale, it is anticipated that Developer will dissolve and transfer its assets to Oracle in dissolution and Oracle will be converted from a limited liability company to a limited partnership; and

4. Developer has informed City that it wishes to change the management of the Project; and

5. City has reviewed the experience, qualifications and identity of the Buyer and the proposed management and finds them acceptable and capable of carrying out the purpose of the Original Agreement; and

6. Buyer now requests City to formally consent to the sale of the membership interests in Oracle to Buyer, the transfer of the Property to Oracle and approve the change in management.

B. Consent. City hereby consents to the sale of the membership interest from Seller to Buyer concurrently herewith, the transfer of the Property to Oracle and the conversion of Oracle from a limited liability company to a limited partnership.

C. Approval. Pursuant to Section 3.b of the Original Agreement, City hereby approves the change in the management of Developer.

PART 2:
AMENDMENT OF AGREEMENT CONTAINING COVENANTS (INCLUDING
RENTAL RESTRICTIONS

A. In the Original Agreement, all references to “Agency” shall hereafter be deemed to refer to “City;” and all references to “Forest City” shall be deemed to refer to “Buyer.”

B. Section 1.h of the Original Agreement, “Property Taxes and Assessments,” is hereby amended in its entirety to read as follows:

“h. Property Taxes and Assessments.

(1) Developer shall pay when and as due any real estate taxes and assessments assessed and levied on or against the Property. Developer shall not place, or allow to be placed, on the Property or any portion thereof, any mortgage, trust deed, encumbrance or lien not authorized by this Agreement, except as may be reasonable and customary in the rehabilitation and operation of multifamily housing similar to the Project. Developer shall remove, or shall have removed, any levy or attachment made on the Property (or any portion thereof), or shall assure the satisfaction thereof within a reasonable time but in any event prior to a tax sale or foreclosure of the Property. Nothing contained herein shall be deemed to prohibit Developer from contesting the validity or amount of any tax assessment, encumbrance or lien, nor to limit the remedies available to Developer in respect thereto.

(2) Nothing contained herein shall be deemed to prohibit Developer from contesting the validity or amount of any tax assessment, encumbrance or lien, nor to limit the remedies available to Developer in respect thereto. Notwithstanding any provision to the contrary contained in this Agreement, Developer and any successor may apply for and receive a California Property Tax Welfare Abatement contingent upon compliance with the rules and regulations set forth under the California Property Tax Welfare Abatement program.

(3) Developer shall pay to City an annual fee of Thirty Thousand Dollars and 00/100 (\$30,000.00), commencing upon the date on which the First Amendment is executed. Said amount shall increase annually by Two Percent (2%) beginning on the first anniversary date of the execution of the First Amendment. Said annual payment to City shall continue until the earlier to occur of the

termination of the Original Agreement, or until the Project no longer maintains its affordability requirements.

(4) Developer shall commit the amount of Seven Hundred Fifteen Thousand Dollars and 00/100 (\$715,000.00), to be spent by December 31, 2022, for the purpose of deferred maintenance, capital improvements and added common area amenities that will enhance the quality of living for tenants of the Project. In addition, Developer will partner with the Foundation for Affordable Housing (“FFAH”) to develop and offer afterschool and social programs to tenants of the Project. These improvements and programs shall be detailed in a separate letter agreement, approved by City and Developer.

(5) Developer shall dedicate to City, by no later than December 31, 2021, that portion of its property adjacent to the exit for City’s Grijalva Park in an amount sufficient for City to install a right turn lane. Said property to be dedicated shall be substantially as set forth in Exhibit “B” to the First Amendment to Agreement Containing Covenants (Including Rental Restrictions).”

C. Section 6 of the Original Agreement, “Term of Agreement,” is hereby amended in its entirety to read as follows:

“6. Term of Agreement. The covenants against discrimination set forth in subsections 1.e and 1.f of this Agreement shall remain in effect in perpetuity. Subject to the rights of the Senior Lenders, as described in Section 5, above, every other covenant and condition and restriction contained in this Agreement shall remain in effect for the longest feasible time, but not less than eighty (80) years from the date hereof (namely October 24, 1995). At any time after 80 years from the date hereof (namely October 24, 1995), Developer may request that City modify or remove all or any part of the use restrictions set forth herein. In connection with any modification or removal of all or any part of the use restrictions, Developer will be required to demonstrate that it is no longer feasible to operate and maintain the Project in a decent, safe and sanitary manner, considering the limited rents allowed pursuant to subsection 1.a of this Agreement. If City finds that it is necessary to modify or remove all or part of the income and rent restrictions applicable to the dwelling units to ensure the continued operation and maintenance of the Project in a decent, safe and sanitary manner, City shall either (a) agree to remove or modify all or part of the restrictions on tenant income and rents, as City may deem necessary to ensure the continued economic feasibility of the Project; or (b) offer additional financial subsidy or other assistance to the Project in an amount which will ensure the continued economic feasibility of the Project and the continuation of the income and rent restrictions.”

D. This First Amendment amends, as set forth herein, the Original Agreement and, except as specifically amended hereby, the Original Agreement shall remain in full force and effect. To the extent that there is any conflict or inconsistency between the terms and provisions of this First Amendment and the terms and provisions of the Original Agreement, the terms and provisions of this First Amendment shall control and govern the rights and obligations of the parties.

E. All terms of this First Amendment shall be binding upon, inure to the benefit of and be enforceable by, the parties hereto and their respective legal representatives, successors and assigns.

F. The parties hereto agree to reasonably cooperate with each other to execute any other documents necessary to effectuate the intent of this First Amendment.

IN WITNESS of this First Amendment to Agreement Containing Covenants (Including Rental Restrictions), the parties enter into this Amendment as of the year and day first above written.

“DEVELOPER”

F.C. ORANGE ASSOCIATES, LLC,
a California limited partnership (formerly
F.C. ORANGE ASSOCIATES, L.P.)

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

“CITY”

CITY OF ORANGE, a municipal corporation

By: _____
Mark A. Murphy, Mayor

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Gary A. Sheatz, City Attorney

EXHIBIT “A”

ORIGINAL AGREEMENT

**AGREEMENT CONTAINING COVENANTS
(INCLUDING RENTAL RESTRICTIONS)**

(with Exhibit A)

AGR-2467.4
C.1

CHICAGO TITLE COMPANY

OFFICIAL BUSINESS
Document entitled to free
recording per Government
Code Section 6103

Recorded in the County of Orange, California
Gary L. Granville, Clerk/Recorder



70.00

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005 10001356 10 16
A12 22 7.00 63.00 0.00 0.00 0.00 0.00

Recording Requested by:
ORANGE REDEVELOPMENT AGENCY

When Recorded Return to:
Orange Redevelopment Agency
300 East Chapman Avenue
Orange, California 92666-1591
c/o Agency Clerk

SPACE ABOVE THIS LINE FOR RECORDING USE

AGREEMENT CONTAINING COVENANTS
(INCLUDING RENTAL RESTRICTIONS)

THIS AGREEMENT is entered into as of October 1, 1995, by and among the ORANGE REDEVELOPMENT AGENCY, a public body corporate and politic (herein referred to as "Agency"), F.C. ORANGE ASSOCIATES L.P., a California limited partnership (hereinafter referred to as "Developer"), and F. C. ORANGE, INC., a California corporation, Developer's general partner (hereinafter referred to as "Owner").

A. Owner owns the real property, exclusive of improvements, located in the City of Orange, County of Orange, State of California, legally described in the "Legal Description" attached hereto and incorporated herein as Exhibit A (the "Land"). Developer owns a leasehold interest in the Land and owns the improvements now or hereafter located on the Land (the "Improvements"). For purposes of this Agreement, the Land and the Improvements shall be referred to collectively as the "Property."

B. Developer intends to rehabilitate the Property and the residential improvements thereon, consisting of 260 apartment units and related improvements and amenities, in accordance with that certain Affordable Housing Agreement entered into between the Agency and Owner, Developer's general partner and predecessor in interest thereunder, on September 13, 1995, to which this Agreement is attached as Attachment No. 4, (the "Affordable Housing Agreement"), which Affordable Housing Agreement is incorporated herein by reference. Any capitalized term not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Affordable Housing Agreement.

C. This Agreement is entered into and recorded in accordance with the Affordable Housing Agreement.

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D. The parties acknowledge and agree that the covenants and agreements contained herein that are applicable to the Developer shall also apply to the Owner to the extent of Owner's interest in the Property.

NOW, THEREFORE, THE AGENCY, THE DEVELOPER AND THE OWNER AGREE AS FOLLOWS:

1. Use of the Property. Developer and Owner, each on behalf of itself and its respective successors, assigns, and each successor in interest to the Property or any part thereof, hereby covenants and agrees to use the Property as follows:

a. Affordable Rental Housing Requirements. Developer and Owner and their respective successors and assigns shall use the Property exclusively to provide rental housing, as described in the Affordable Housing Agreement and this Agreement, as follows:

(1) The Property shall consist of 260 apartment units (the "Units") and related amenities, as described in the Scope of Rehabilitation attached to the Affordable Housing Agreement as Attachment No. 3.

(2) During the term of this Agreement, all of the Units (except a manager's Unit when occupied by a resident manager) shall be rented exclusively to persons or families of Low Income (as defined below), at an Affordable Rent (as defined below). Without the express written consent of the Agency, neither Developer nor Owner shall subdivide its respective interest in the Property for purposes of selling or otherwise conveying separate ownership interests in portions of the Property.

(3) The maximum incomes of residential tenants eligible to rent the Units shall be determined on the basis of the Area Median Income for Orange County, published from time to time by the United States Department of Housing and Urban Development ("HUD"), the State Department of Housing and Community Development ("HCD") or successor agencies. For purposes of this Agreement, the term "Low Income" shall mean a household income that does not exceed 60% of the area median income, adjusted for the actual size of the household proposed to rent a Unit.

(4) The maximum rent that may be charged to such persons for a Unit, including a reasonable utility allowance, shall not exceed an "Affordable Rent," which, for purposes of this Agreement shall not exceed the product of 30 percent times 60% of the area median income adjusted for family size appropriate for the unit (which, for a two-bedroom Unit, shall mean three persons, as provided in California Health and Safety Code Sections 50052.5 and 50053). The parties acknowledge that the current maximum incomes are set forth in a memorandum from HCD to Interested Parties, dated February 1995, entitled "New Income Limits" (referred to herein as

the "HCD Income Schedule"). Prior to initial lease-up of the Units, the Agency Executive Director and the Developer shall determine the maximum rents to be charged for each of the Units (not to exceed "Affordable Rent") and the actual maximum income of tenants who will be eligible for such units (not to exceed 60% of the area median income), on the basis of the then current HCD Income Schedule. From time to time thereafter, as changes occur in the area median income (as published by HUD or HCD), Developer and Agency shall revise the maximum rents to be charged for each of the Units (not to exceed "Affordable Rent") and the actual maximum income of tenants who will be eligible for such units (not to exceed 60% of the area median income).

(5) Developer shall only lease the Units to persons or families who qualify as Low Income tenants at the time of income certification, as described in paragraph (6), below ("Qualified Tenant"). A person or family who at the time of income certification qualified as a Low Income tenant shall continue to be deemed so qualified, until such time as the person or family's income is redetermined (as provided in paragraph (6) below), even if such person or family's income has subsequently increased to an amount that exceeds 60% of the area median income, adjusted for family size. Each lease agreement with a tenant shall include notice to the tenant of the requirements of Section 1 of this Agreement Containing Covenants relating to income restrictions.

(6) (A) Agency and appropriate departments of the City of Orange (the "City"), and their respective successors and assigns, shall have the right to monitor and enforce the covenants contained in this subsection 1.a. Developer covenants that it shall comply with any monitoring program set up by Agency and/or City to enforce said covenants.

(B) Developer shall utilize the forms provided as Certifications of Eligibility (attached to this Agreement as Exhibit "B") and Certification of Continuing Program Compliance (attached to this Agreement as Exhibit "C"), which are incorporated herein by this reference. When a Unit is rented to a Low Income tenant, Developer shall report utilizing a form substantially in the form of Exhibit "B." Prior to renting any Unit to a tenant, and annually thereafter within thirty (30) days after the anniversary date of such tenant's occupancy, the Developer shall submit to the Agency a completed income computation and certification form in the form of the Certification of Eligibility (Exhibit "B") and Certificate of Continuing Program Compliance (Exhibit "C"). Developer shall certify that each tenant leasing a Unit meets the eligibility requirements established for the Unit and further that each tenant is a Low Income household.

(C) Reports with respect to each Unit shall be submitted to the Agency annually, not later than August 1, for the most recent year (ending June 30). Developer shall obtain an

income certification from each tenant and shall certify that, to the best of Developer's knowledge, the income of the tenant is truthfully set forth in the income certification form. Reporting by the Developer shall conform to the requirements of California Health and Safety Code Section 33418, and shall further provide information to the Agency with respect to the operation of the Site that will enable the Agency to make appropriate reports pursuant to California Health and Safety Code Section 33080.4. The Developer shall verify the income certification of the tenant in one or more of the following methods as specifically requested by the Agency:

(i) obtain two (2) paycheck stubs from the tenant's two (2) most recent pay periods;

(ii) obtain a true copy of an income tax return from the tenant for the most recent tax year in which a return was filed;

(iii) obtain an income verification certification from the employer of the tenant;

(iv) obtain an income verification certification from the Social Security Administration and/or the California Department of Social Services if the tenant receives assistance from such agencies; or

(v) obtain an alternate form of income verification reasonably requested by the Agency, if none of the above forms of verification is available to the Developer.

On an annual basis Developer or its management agent shall additionally submit to Agency evidence of each Qualified Tenant's continuing eligibility for the Units. Agency (or the City) shall review such reports within 14 days of receipt, for certification of continuing affordability of Units and eligibility of tenants. Moreover, Developer covenants and agrees that it shall pay the reasonable costs of the Agency (or City) incurred in monitoring and enforcing these requirements.

b. Management. Developer, or an affiliated Forest City entity, shall manage and operate the Project in manner that is comparable to other affordable multifamily rental housing developments managed by other Forest City entities. Developer shall be responsible for the management of the Project either by direct management, by a management company that is a wholly owned subsidiary of Forest City Enterprises, or by contracting its managerial functions to a third party entity acceptable to Agency Developer. Prior to the Closing, Developer shall prepare and submit which will be charged with managing the Project on behalf of the Agency Executive Director for approval a management plan (the "Management Plan"), for the operation and management of the Project. The Management Plan shall include, but not be limited to,

the components listed below. Approval of the Management Plan must be obtained prior to the initial lease-up of any of the Units. During the term of this Agreement, Developer shall manage the Units in accordance with the approved Management Plan, including such amendments as may be approved in writing from time to time by the Agency Executive Director or designee. The components of the Management Plan shall include:

(1) Management Agent Developer shall submit the name and qualifications of the proposed Management Agent. Agency shall have the right to review and approve any such entity prior to its selection by Developer. Such approval shall not be unreasonably withheld, and any disapproval shall be based on the experience and qualifications of the Management Agent.

(2) Management Agreement Developer shall submit a copy of the proposed management agreement specifying the amount of the management fee, and the relationship and division of responsibilities between Developer and Management Agent. Developer shall include in any agreement with the Management Agent a provision permitting Developer to terminate the agreement in the event that the Management Agent fails to cure any breach of this Agreement or violation of federal, state or local health and safety laws within thirty (30) days following the giving of notice of such violations by the Agency or any other governmental entity.

(3) Annual Budget and Projected Cash Flows Prior to the Closing, and annually thereafter not later than February 1 of each calendar year, Developer shall submit a projected operating budget and cash flow to the Agency Executive Director or designee, demonstrating that there is sufficient cash flow to operate the Project in a reasonable and prudent manner in accordance with this Agreement. The budget and cash flow shall be in a form that is acceptable to the Agency Executive Director or designee.

(4) Tenant Selection Criteria. Developer shall adopt written tenant selection policies and criteria that meet the following requirements:

(A) Are consistent with the purpose of providing housing for Low Income tenants.

(B) Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease.

(C) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and the prompt written notification to any rejected applicant of the grounds for any rejection.

(D) Provide first priority in the selection of eligible tenants to households referred to Developer by the Agency.

(E) To the extent that Developer's tenant selection criteria include a restriction on maximum household size, such restriction shall not be more restrictive than the definition of "family size appropriate to the unit" set forth in California Health and Safety Code Section 50052.5 (i.e., three persons in the case of a two-bedroom Unit), nor shall they permit more than five (5) persons to occupy a two-bedroom Unit.

(5) Rules and Regulations. The Management Plan shall include such reasonable rules and regulations relating to the conduct of tenants and use of the Units and common areas as are customary for new apartment communities in the region, and as Developer may deem necessary or appropriate. The Agency hereby approves the "Apartment Community Policies Addendum" attached hereto as Exhibit "D" which is incorporated herein by this reference. To the extent the Management Plan contains rules different than those set forth in Exhibit "D", such rules shall be subject to the approval of the Agency Executive Director.

c. Exterior Maintenance. Prior to the Closing, Developer shall prepare and submit to the Agency Executive Director for approval a program for the maintenance of the exterior of the improvements that complies with this subsection 1.c. (the "Exterior Maintenance Program"). Developer shall maintain the exterior of the improvements in good condition in accordance with the Exterior Maintenance Program, as the same may be amended from time to time with the approval of the Agency Executive Director. The Exterior Maintenance Program shall describe in reasonable detail the standards to be followed in maintaining the exterior of the improvements, including a schedule indicating the proposed frequency of each element of maintenance, and shall include, at a minimum, the following: periodic cleaning of the exterior of the improvements, including windows; removing graffiti; removing debris and waste materials and otherwise maintaining outdoor areas of the Project; performing inspections of all exterior features to determine whether repairs are required; conducting periodic protective treatments such as rust removal and caulking; conducting repairs to facades, roof, doors, windows, and other exterior features; maintaining security devices and systems; and periodic repainting. The Exterior Maintenance Program, including any amendments proposed by Developer, shall be subject to the approval of the Agency Executive Director or his designee. In the event Developer fails to maintain the exterior of the improvements in accordance with the approved Exterior Maintenance Program, the Agency shall have the right, but not the obligation, to enter the Property, correct any violation, and hold the Developer responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Property.

d. Alterations and Modifications. Developer shall protect, maintain and preserve the improvements on the Property and obtain approval in writing from Agency prior to any material alteration or modification of such Improvements, such approval not to be unreasonably withheld or delayed.

e. Non-Discrimination. Developer herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, and this Agreement is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry in the leasing, subleasing, renting, transferring, use, occupancy, tenure or enjoyment of the Property, nor shall Developer itself, or any person claiming under or through it, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessee, subtenants, or vendees in the Property.

f. Required Non-Discrimination Clauses. Developer shall refrain from restricting the rental, sale, or lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and contract entered into with respect to the Property, or any portion thereof, after the date of this Agreement shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: "The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry in the

leasing, subleasing, transferring, use or enjoyment of the land herein leased nor shall the lease itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants or vendees in the land herein leased."

(3) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry in the sale, lease sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land."

g. Indemnity and Insurance.

(1) Developer agrees to and shall defend, indemnify and hold the Agency and its officers, employees, agents, contractors and attorneys harmless from and against all claims, liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the Property and which shall be directly or indirectly caused by any acts done thereon by, or any errors or omissions of, the Developer or its partners, employees, contractors or agents.

(2) Developer shall maintain a policy or policies of the following types of insurance on the Property:

(A) Liability insurance, which provides coverage not less than that provided in the form of a comprehensive general liability insurance policy against liability for any and all claims and suits for damages or injuries to persons or property resulting from or arising out of operations of Developer, its officers, agents, or employees. Said policy or policies of insurance shall provide coverage for both bodily injury and property damage in not less than Ten Million Dollars (\$10,000,000) combined single limit, or its equivalent, increased annually by the increase, if any, in the consumer price index (CPI).

(B) Insurance covering the improvements existing or hereafter erected on the Property against loss by fire and other hazards, casualties and contingencies, including earthquakes (if available at commercially reasonable rates). All such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies, in the amount of the

replacement value of the improvements.

(C) All such policies shall name the Orange Redevelopment Agency, as insured or additional insured, and be endorsed with a standard mortgage clause with loss payable to the Agency. Certificates thereof together with copies of original policies shall be delivered to Executive Director. All of said policies shall contain a provision that no termination, cancellation, or change of coverage of insured shall be effective until after thirty (30) days notice thereof has been given in writing to Executive Director. Developer shall give to Executive Director prompt and timely notice of claim made or suit instituted arising out of Developer's operations hereunder. All insurance policies shall be written by responsible and solvent insurance companies.

h. Property Taxes and Assessments. Developer shall pay when and as due (and shall not apply for any deferral or exemption of) any real estate taxes and assessments assessed and levied on or against the Property. The Developer shall not place, or allow to be placed, on the Property or any portion thereof, any mortgage, trust deed, encumbrance or lien not authorized by this Agreement, except as may be reasonable and customary in the rehabilitation and operation of multifamily housing similar to the Project. The Developer shall remove, or shall have removed, any levy or attachment made on the Property (or any portion thereof), or shall assure the satisfaction thereof within a reasonable time but in any event prior to a tax sale or foreclosure of the Property. Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amount of any tax assessment, encumbrance or lien, nor to limit the remedies available to the Developer in respect thereto.

2. Covenants Run With the Land. Subject to Section 5, below, all conditions, covenants and restrictions contained in this Agreement shall be covenants running with the land, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by Agency, its successors and assigns, and the City of Orange and its successors and assigns, against Developer, its successors and assigns, to or of the Property or any portion thereof or any interest therein, and any party in possession or occupancy of said Property or portion thereof. Agency and the City shall be deemed the beneficiaries of the covenants, conditions and restrictions of this Agreement both for and in their own rights and for the purposes of protecting the interests of the community. The covenants, conditions, and restrictions shall run in favor of the Agency and the City, without regard to whether the Agency or City has been, remains, or is an owner of any part of the Property or interest therein. Except as provided in the preceding sentence, the covenants, conditions and restrictions contained in this Agree-

ment shall not benefit nor be enforceable by any other person.

3. Prohibition against Transfers

a. Except for a Permitted Transfer (defined below), or as otherwise specifically permitted by this Agreement, Developer shall not assign all or any part of its interest in the Project and/or the Property, or any part thereof or interest therein, or its interest in this Agreement or any right or obligation herein, or enter into an agreement to do any of the foregoing, or accomplish any of the foregoing indirectly by changes in the ownership, management or control of Developer, without the prior written approval of the Agency, which approval shall not be unreasonably withheld or conditioned. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate Rehabilitation of the Project pursuant to the Affordable Housing Agreement, to prohibit or restrict the renting for occupancy of the Units, or to prohibit Permitted Transfers.

b. Without the prior written approval of the Agency Executive Director, there shall be no material and adverse change in the management of the Developer, or with respect to the identity of the parties in control of the Developer or the degree thereof, by any method or means (other than routine and periodic changes in board membership and staffing, or as otherwise approved by the Executive Director). Notwithstanding the foregoing, Developer shall not be in default of this subparagraph b, so long as Developer remains owned and controlled by Forest City Properties Corporation or another Forest City entity.

c. The Developer shall promptly notify the Executive Director of any and all material and adverse changes in management or control of Developer, of which it or any of its officers have been notified or otherwise have knowledge or information.

d. If, in violation of this Section 3, there is a significant material and adverse change in the ownership, management or control of Developer, or an assignment by Developer, which is not approved by the Agency Executive Director, the Agency may take such reasonable action as the Agency may deem appropriate to ensure that the purposes of this Agreement will be carried out, including without limiting the generality of the foregoing, terminating this Agreement and exercising any of Agency's rights.

e. For purposes of this Agreement, the term "Permitted Transfer" means any of the following:

(i) a conveyance of a security interest in the Property or Project to a Senior Lender, to secure the construction loan to be made by Union Bank, and the permanent mortgage loan (the "Permanent Senior Loan") to be made by Washington Capital DUS, Inc. and sold to the Federal National Mortgage Association ("Fannie

Mae"), or any other Senior Loan, or the conveyance of title to the Property or Project in connection with a foreclosure or a deed, assignment or conveyance in lieu of foreclosure of such loan or a comparable conversion of the Permanent Senior Loan or any other Senior Loan;

(ii) (A) Subject to subparagraph (ii)(B), below, a conveyance of the Property or Project to a limited partnership in which Developer's general partner or any other Forest City Entity is the controlling and managing general partner, or a sale back from such partnership to such general partner, or the substitution of such general partner as directed by the investor limited partner in accordance with the terms of the Developer's partnership agreement.

(B) Notwithstanding any provision to the contrary contained herein, any event described in subparagraph (ii)(A) shall not be deemed to be a Permitted Transfer unless the Executive Director or designee reasonably determines, which determination shall not be unreasonably withheld, that Developer's general partner, Forest City Properties Corporation or another Forest City entity remains, or any other entity reasonably acceptable to the Agency's Executive Director (which shall not be unreasonably withheld) becomes, the controlling and managing general partner of the Developer.

(iii) Any refinancing that repays a Senior Loan (referred to herein as a "Take-out Loan"), including the Permanent Senior Loan, which is paid off with such refinancing in accordance with the terms of the Senior Loan, including the terms of the Permanent Senior Loan, but only if the Agency Executive Director reasonably determines (which determination shall not be unreasonably withheld) that the resulting loan-to-value ratio will not exceed 90% (including the Take-out Loan and the Agency Loan), and the repayment terms of the Take-out Loan do not materially impair the Developer's ability to repay the Agency Loan.

(iv) The leasing for occupancy of all or any part of the Property or Project.

(v) The inclusion of equity participation by Developer by transfer or addition of limited or general partners to the Developer or similar mechanism.

(f) Nothing contained in this Agreement shall affect or limit any provision of any mortgage or other loan document evidencing or securing Washington Capital, Fannie Mae or other Senior Lender which requires Developer to obtain the consent of Washington Capital, Fannie Mae or other Senior Lender as a precondition to any sale, transfer or other disposition of the Property or interests in the Developer.

4. Agency's Rights in Event of Breach. Agency shall have the right, in the event of any breach of any agreement or covenant contained herein, to exercise all applicable rights and remedies, and to maintain any actions at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant. Performance of Developer's obligations pursuant to this Agreement is secured by that certain Leasehold Deed of Trust and Assignment of Rents in favor of Agency, recorded concurrently with this Agreement. The Developer and Owner covenant and agree to inform Washington Capital and Fannie Mae by written notice of any violation of the obligations hereunder, the nature of the violation and that their violation has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable, within five days of first discovering any such violation, and the Agency covenants and agrees to inform Washington Capital and Fannie Mae by written notice of any violation of the obligation of the Developer or Owner hereunder within five days of actual knowledge of such violation and to provide the Developer and Owner a reasonable period of time in which to correct each violation. Notwithstanding the occurrence of each violation, the Agency shall not have, and acknowledges that it shall not have, any right to cause or direct acceleration of any Senior Loan, including the Permanent Senior Loan, to enforce any note evidencing any Senior Loan, including the Permanent Senior Loan, or to foreclose on any mortgage securing any Senior Loan, including the Permanent Senior Loan.

5. Effect of Breach. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any permitted deed of trust or other security instrument recorded on the Property.

6. Term of Agreement. The covenants against discrimination set forth in subsections 1.e and 1.f of this Agreement shall remain in effect in perpetuity. Subject to the rights of Senior Lenders, as described in Section 5, above, every other covenant and condition and restriction contained in this Agreement shall remain in effect for the longest feasible time, but not less than 55 years from the date hereof. At any time after 55 years from the date hereof, Developer may request that Agency modify or remove all or any part of the use restrictions set forth herein. In connection with any modification or removal of all or any part of the use restrictions, Developer will be required to demonstrate that it is no longer feasible to operate and maintain the Project in a decent, safe and sanitary manner, considering the limited rents allowed pursuant to subsection 1.a of this Agreement. If Agency finds that it is necessary to modify or remove all or part of the income and rent restrictions applicable to the dwelling units to ensure the continued operation and maintenance of the project in a decent, safe and sanitary manner, Agency shall either (a) agree to remove or modify all or part of the restrictions on tenant income and

rents, as Agency may deem necessary to ensure the continued economic feasibility of the project; or (b) offer additional financial subsidy or other assistance to the project in an amount which will ensure the continued economic feasibility of the project and the continuation of the income and rent restrictions.

7. Subordination; Limitation on Enforcement. All obligations of the Developer hereunder for the payment of any money and all claims for damages against the Developer occasioned by breach or alleged breach by the Developer of its obligations hereunder shall be subordinate in all respects to the obligations of the Borrower under the mortgage loan documents evidencing and securing any Senior Loan, including the Permanent Senior Loan. In the event of any conflict between the terms of this Agreement with respect to management and maintenance of, alterations and modifications to, insurance for, and property taxes and assessments due with respect to, the Project, and the terms of the mortgage loan documents evidencing and securing any Senior Lender, including Washington Capital DUS, Inc. and Fannie Mae, the terms of the mortgage loan documents evidencing and securing any Senior Loan shall control.

Notwithstanding any other provisions in this Agreement to the contrary, upon any default by the Developer or Owner, Agency (or City) may seek specific performance of this Agreement or enjoin acts which may be unlawful or in violation of this Agreement, but neither Agency (nor City) may seek to recover damages from Borrower apart from any claim of indemnification. Moreover, notwithstanding other provisions of this Agreement to the contrary, so long as Fannie Mae is a Senior Lender, neither Agency (nor City) may:

(a) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Developer to timely pay the principal of, interest on, or other amounts due and payable under, a Senior Loan, including the Permanent Senior Loan held by Fannie Mae; or

(b) interfere with or attempt to influence the exercise by Fannie Mae of any of its rights under the Permanent Senior Loan held thereby, including, without limitation, Fannie Mae's remedial rights under the mortgage loan documents evidencing or securing the Permanent Senior Loan held thereby upon the occurrence of an event of default by Borrower under the Permanent Senior Loan held thereby.

(c) the Agency acknowledges that it shall not have the right to accelerate payment of or seek to enforce any mortgage note evidencing any Senior Loan, including the Permanent Senior Loan, or to foreclose on any mortgage securing any Senior Loan, including the Permanent Senior Loan it being understood and agreed that the Agency may not, without the prior written consent of any Senior Lender, including Fannie Mae, on account

of any default under this Agreement, cause any Senior Loan, including the Permanent Senior Loan, to become due and payable;

provided that the foregoing prohibitions shall not be construed to prevent the Agency from consulting with any Senior Lender, including Fannie Mae, or to limit the rights of the Agency to specifically enforce this Agreement; and provided further that this prohibition shall not be construed to limit the rights of the Agency to enforce its rights against the Developer and the Owner under this Agreement so long as it does not cause the Developer or the Owner to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Developer or the Owner under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law now or hereafter in effect.

8. Termination. Notwithstanding any provision of this Agreement to the contrary, this Agreement, and all restrictions, covenants, encumbrances and conditions imposed by Agency hereunder, shall automatically terminate and be of no further force and effect upon any foreclosure of the mortgage of Union Bank or of the mortgage, deed of trust or other security instrument securing the Permanent Senior Loan or any other Senior Loan, in any action or proceeding brought by Union Bank, Washington Capital and/or Fannie Mae or other Senior Lender, or any transfer of the Land, the Improvements or the Leasehold Interest in the Land by any deed, conveyance or assignment to Union Bank, Washington Capital and/or Fannie Mae or other Senior Lender by deed, conveyance or assignment in lieu of foreclosure, or comparable conversion of the respective mortgage of such Senior Lender or upon involuntary noncompliance with the provisions of this Agreement caused by fire, seizure, requisition, change in a federal law, or an action of a federal agency which prevents Agency (or City) from enforcing the provisions of this Agreement, or condemnation or similar event.

9. Notices. Copies of all notices under this Agreement shall be sent by first class registered or certified mail, return receipt requested, or by private courier service which provides evidence of delivery, postage or other charges prepaid, or sent by telecopy or other electronic means which produces evidence of transmission, confirmed by first class mail (and in each case shall be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission) to:

Fannie Mae: Federal National Mortgage Association
3900 Wisconsin Avenue, N.W.
Washington, D.C. 20016-2899
Attention: Sr. Vice President - Multifamily

with a copy to:

Federal National Mortgage Association
3900 Wisconsin Avenue, N.W.
Washington, D.C. 30016-2899
Attention: Office of the General Counsel -
re: Multifamily Matters

with a copy to:

Federal National Mortgage Association
135 North Los Robles Avenue, Suite 300
Pasadena, California 91101-1707
Attention: Vice President/Multifamily

with a copy to:

Arent Fox Kintner Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Attention: Stephen D. Kahn, Esq.

with a copy to:


Washington Capital DUS, Inc.
1616 North Fort Myer Drive
Suite 1210
Arlington, VA 22209
Attention: Richard Thornton

with a copy to:

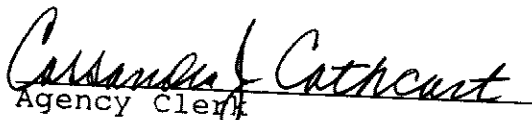
Ballard Spahr Andrews & Ingersoll
555 13th Street, N.W., Suite 900 East
Washington, D.C. 20004
Attention: Mary Jo George, Esq.

IN WITNESS WHEREOF, the Agency, the Developer and the Owner have signed this Agreement as of the dates set opposite their signatures.

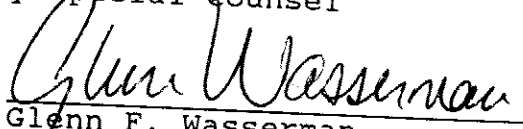
ORANGE REDEVELOPMENT AGENCY

Dated: October 19, 1995 By: 
David L. Rudat
Interim Executive Director

ATTEST:

By: 
Agency Clerk

APPROVED AS TO FORM AND LEGALITY:
KANE, BALLMER & BERKMAN
Agency Special Counsel


By: 
Glenn F. Wasserman

"Developer"
F.C. ORANGE ASSOCIATES L.P., a
California limited partnership

By: F. C. Orange, Inc., a
California corporation


Its: General Partner

Dated: 10/23/95

By: 
Gregory M. Vilkin
President

"Owner"
F. C. ORANGE, INC., a California
corporation

Dated: 10/23/95

By: 
Gregory M. Vilkin
President

ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

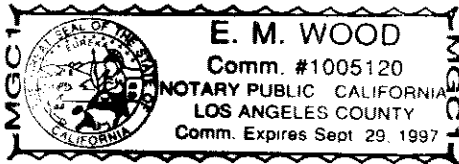
COUNTY OF Los Angeles)

On Oct 23, 1995 before me, - EMMWOOD -
Date Name, Title of Office, e.g., "Jane Doe, Notary Public"

personally appeared - Gregory M. Vilkin
Name(s) of Signer(s)

☐ personally known to me - OR - ☒

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 persons(s), or the entity upon behalf of which the persons(s) acted, executed the instrument.



Witness my hand and official seal.

E. M. Wood
Signature of Notary

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL(S)
☐ CORPORATE OFFICER(S) Title(s)
☐ PARTNER(S)
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ SUBSCRIBING WITNESS
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies)

F.C. Orange
Associates L.P.

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED
TO THE DOCUMENT DESCRIBED AT
RIGHT:

Title or Type of Document Agmt Containing Covenants
Number of Pages (including initial restrictions)
Date of Document 10-1-95
Signer(s) Other Than Named Above _____

ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

COUNTY OF Los Angeles)

On Oct 23, 1995 before me, -EMMWOOD-
Date Name, Title of Office, e.g., "Jane Doe, Notary Public"

personally appeared -Gregory M. Vilkin
Name(s) of Signer(s)

☐ personally known to me - OR - ☒

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 persons(s), or the entity upon behalf of which the persons(s) acted, executed the instrument.



Witness my hand and official seal.

[Signature]
Signature of Notary

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL(S)
☐ CORPORATE OFFICER(S) Title(s)
☐ PARTNER(S)
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ SUBSCRIBING WITNESS
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
Name of Person(s) or Entity(ies)

F.C. Orange, Inc.

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED
TO THE DOCUMENT DESCRIBED AT
RIGHT:

Title or Type of Document Agmt. Containing Covenants
Number of Pages 1 Including Rental Restrictions
Date of Document 10-1-95
Signer(s) Other Than Named Above _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

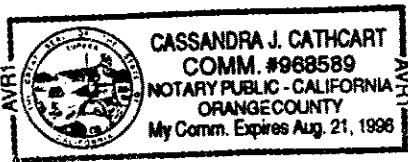
No. 5193

State of California
County of Orange }

On 10-19-95 before me, Cassandra J. Cathcart, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared David L. Rubat, Esq. Executive Director,
NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ 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.



WITNESS my hand and official seal.

Cassandra J. Cathcart
SIGNATURE OF NOTARY

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER(S)
TITLE(S)
☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

OPTIONAL SECTION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

TITLE OR TYPE OF DOCUMENT _____

NUMBER OF PAGES _____ DATE OF DOCUMENT _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

GOVERNMENT CODE 2736.7

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY E.M. WOOD
DATE COMMISSION EXPIRES 9-29-97
COUNTY WHERE BOND IS FILED LOS ANGELES
COMMISSION NO. 1005120
MANUFACTURER/VENDOR NO. MGC1
PLACE OF EXECUTION IRVINE
SIGNATURE Cindi Moorman
DATED 10-24-95

GOVERNMENT CODE 2736.7

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY Cassandra J. Cathcart
DATE COMMISSION EXPIRES 8-21-96
COUNTY WHERE BOND IS FILED Orange
COMMISSION NO. 968589
MANUFACTURER/VENDOR NO. AVR 1
PLACE OF EXECUTION Irvine
SIGNATURE Cindi Moorman
DATED 10-24-95

EXHIBIT "A"
TO AGREEMENT CONTAINING COVENANTS

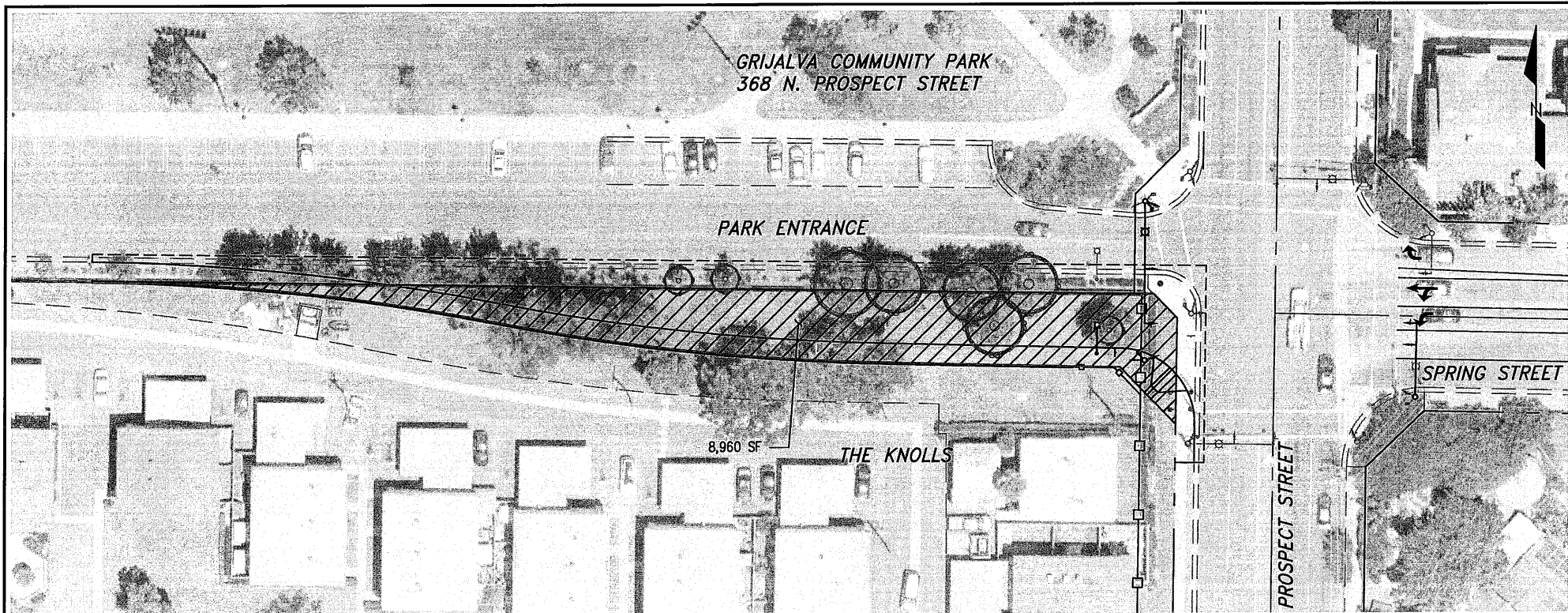
LEGAL DESCRIPTION OF THE PROPERTY

ALL THAT CERTAIN LAND SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF ORANGE, DESCRIBED AS FOLLOWS:

LOTS 13, 14, 15, 16, 26 AND THE SOUTHERLY 7 FEET OF LOT 17 (EXCEPTING THAT PORTION LYING WEST OF THE EAST LINE OF MCPHERSON ROAD BY FINAL ORDER OF CONDEMNATION RECORDED FEBRUARY 21, 1991 AS INSTRUMENT NO. 91-078842, OFFICIAL RECORDS), OF THE G. HOWARD THOMPSON TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 1 PAGE 22 OF RECORD OF SURVEYS, IN THE OFFICE THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA, AND THAT PORTION OF THE NORTH HALF OF CENTER STREET ADJOINING SAID LOTS 13, 14, 15 AND 26, LYING BETWEEN THE CENTERLINE OF MAIN STREET AND THE EAST LINE OF FIRST STREET, ABANDONED BY ORDER OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, A CERTIFIED COPY OF WHICH WAS RECORDED MAY 25, 1927 IN BOOK 55, PAGE 60 OF OFFICIAL RECORDS.

EXHIBIT “B”

DEDICATION OF LAND TO CITY FOR GRIJALVA PARK TURN LANE



CITY OF ORANGE

OFFICE OF THE CITY ENGINEER

EXHIBIT 1

RIGHT TURN LANE MODIFICATION
PROSPECT STREET AT SPRING STREET

LEGEND:



PROPERTY TO BE DEDICATED
TO CITY OF ORANGE

	NAME	DATE
DRAWN	E.M.L.	7/29/20
DESIGNED	E.M.L.	7/29/20
CHECKED	E.M.L.	7/29/20

SCALE:	HORIZ. AS NOTED	VERT. AS NOTED	F.B. _____ PG. _____	SHEET 1 OF 1 SHEETS
				SP-4131