

AFFORDABLE HOUSING

DISPOSITION, DEVELOPMENT, AND LOAN AGREEMENT

AMONG

THE CITY OF ORANGE

C & C DEVELOPMENT CO., LLC

AND

ORANGE HOUSING DEVELOPMENT CORPORATION.

Dated as of January 12, 2021

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Exhibit F:	Form of Deed of Trust
Exhibit G:	Schedule of Performance
Exhibit H:	Form of Regulatory Agreement
Exhibit I:	Form of Notice of Affordability Restrictions

AFFORDABLE HOUSING DISPOSITION, DEVELOPMENT, AND LOAN AGREEMENT

This Affordable Housing Disposition, Development, and Loan Agreement (the "**Agreement**") is entered into as of January 12, 2021 (the "**Effective Date**"), by and between THE CITY OF ORANGE, a municipal corporation of the State of California (the "**City**"), and C & C Development Co., LLC, a California limited liability company ("**C&C**"), and Orange Housing Development Corporation, a California nonprofit public benefit corporation ("**OHDC**", and together with C&C, the "**Developer**"), with reference to the following facts, understandings and intentions of the Parties:

RECITALS

A. These Recitals refer to and utilize certain capitalized terms that are defined in Article 1 of this Agreement. The Parties intend to refer to those definitions in connection with the use of capitalized terms in these Recitals.

B. The City and the Developer previously entered into an Option and Predevelopment Agreement, dated as of December 18, 2019 (the "**Option Agreement**"), under which the City granted the Developer an option to acquire approximately 2.81 acres of the City's corporation yard real property located at 637 West Struck Avenue, Orange, California, as more particularly described in the attached Exhibit A-1 and as depicted on the attached Exhibit A-2 (the "**Property**").

C. The Developer intends to develop a housing development on the Property, containing approximately sixty-two (62) rental housing units (the "**Units**"), including one manager's unit, and related improvements as an affordable rental housing complex (the "**Development**").

D. By entering into this Agreement, the Developer exercises its option under the Option Agreement and intends to acquire the Property and construct and operate the Development on the Property in accordance with the terms of this Agreement.

E. The City has determined that the Developer has the necessary expertise, skill and ability to carry out the commitments set forth in this Agreement and that this Agreement is in the best interests, and will materially contribute to the improvement, of the City by improving the supply of affordable housing. Implementation of this Agreement will further the goals and objectives of the City's General Plan by promoting development of affordable housing, and will provide new housing for low and very-low income households which will help accommodate the City's Regional Housing Needs Assessment (RHNA) goals.

F. To facilitate the Development, the City desires to convey the Property to the Developer, take back a loan for a portion of the Purchase Price for the Property and provide additional loans to the Developer to pay certain development and construction costs, subject to terms and conditions in this Agreement.

G. The environmental impacts of the Development have been analyzed in accordance with the California Environmental Quality Act (CEQA). The City Planning Commission found

on November 16, 2020, that the proposed Development is categorically exempt from further environmental analysis under CEQA Guideline 15332, and the proposed Development would not trigger any exceptions of CEQA Guideline 15300.2.

H. Pursuant to Section 34176 of the Health and Safety Code, the City adopted Resolution No. 10626, on January 24, 2012, electing to retain the housing assets, rights, powers, duties, obligations, and functions previously performed by the dissolved Orange Redevelopment Agency.

I. Article XXXIV of the California Constitution imposes no conditions on the City's consideration and approval of this Agreement, because the Development undertaken pursuant to this Agreement is exempt from Article XXXIV under Health and Safety Code Section 37001.5(e).

THEREFORE, the City and the Developer agree as follows:

ARTICLE 1. DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, the following definitions shall apply throughout this Agreement.

(a) "**Affiliate**" means and refers to any person or entity, directly or indirectly, Controlling or Controlled by or under common Control with the applicable person or entity, whether by direct or indirect ownership of equity interests, by contract or otherwise.

(b) "**Agreement**" means this Disposition, Development, and Loan Agreement, including the attached Exhibits and all subsequent operating memoranda and amendments to this Agreement.

(c) "**Applicable Land Use Approvals**" means the City and other governmental permits and approvals necessary for the development and operation of the Development, including overall design and architectural review, but excluding a building permit.

(d) "**Appraisal**" has the meaning set forth in Section 2.6(a).

(e) "**C&C**" means C & C Development Co, LLC, a California limited liability company, and its permitted successors and assigns as set forth herein.

(f) "**CDLAC**" means the California Debt Limitation Allocation Committee or successor in function.

(g) "**CDLAC Allocation Cycle**" means the application funding round, or cycle, for the allocation of tax-exempt housing revenue bonds for qualified residential rental projects established by CDLAC.

(h) "**CEQA**" means the California Environmental Quality Act, Public Resources Code Sections 21000, et seq.

(i) **"Certificate of Completion"** means the certificate to be issued by the City upon the completion of construction of the Improvements as more particularly set forth in Section 5.12.

(j) **"City"** means the City of Orange, California. The City may be referenced in different provisions of this Agreement in its capacity as a landowner/lender, or as a municipal regulatory authority. Unless otherwise indicated, any reference to the City in this Agreement shall be in its capacity as a landowner/lender.

(k) **"City Council"** means the City Council of the City of Orange.

(l) **"City Documents"** means, collectively, this Agreement, the Deed of Trust, the Development Loan Note, the Housing Asset Fund Loan Note, the Land Loan Note, the Notice of Affordability Restrictions, the Regulatory Agreement, and all other documents required to be executed by the Developer in connection with the transaction contemplated by this Agreement.

(m) **"City Event of Default"** has the meaning set forth in Section 8.3

(n) **"City Loan"** shall mean, collectively, the Development Loan, the Housing Asset Fund Loan, and the Land Loan, in the total amount of Five Million Twelve Thousand Five Hundred Dollars (\$5,012,500).

(o) **"City Manager"** means the City Manager of the City or his or her designee or successor in function.

(p) **"City's Percentage"** has the meaning set forth in Section 4.3.

(q) **"Closing"** means the date mutually acceptable to the Parties within thirty (30) days following the date on which all conditions precedent to conveyance set forth herein have been satisfied, but in no event later than the date set forth in the Schedule of Performance (provided that the Developer has satisfied the conditions precedent to conveyance set forth herein), or such other date that the Parties agree upon in writing.

(r) **"Code"** means the Internal Revenue Code of 1986, as amended.

(s) **"Construction Plans"** means all construction documentation upon which the Developer, and the Developer's general contractor and subcontractors, shall rely on for constructing and/or rehabilitating each and every part of the Improvements identified in the scope of work specifications and a time schedule for construction.

(t) **"Control"** shall mean direct or indirect management or control of: (i) the managing member or members in the case of a limited liability company; (ii) the managing general partner or general partners in the case of a partnership; and (iii) a majority of the directors in the case of a corporation.

(u) **"County"** means the County of Orange, California.

(v) **"Deed of Trust"** means the deed of trust that will encumber the Developer's fee interest in the Property to secure repayment of the Development Loan Note, Housing Asset Fund Loan Note and Land Loan Note, substantially in the form attached hereto as Exhibit F.

(w) **"Developer"** means C&C and OHDC together, and their permitted successors and assigns as set forth herein.

(x) **"Developer Event of Default"** has the meaning set forth in Section 8.4.

(y) **"Development"** means the Property and the Improvements.

(z) **"Development Loan"** shall mean the loan to be provided by City to Developer in an amount equal to Seven Hundred Sixty-Two Thousand Five Hundred Dollars (\$762,500) to assist Developer with the costs Developer incurs to develop and construct the Development.

(aa) **"Development Loan Note"** shall mean a promissory note, substantially in the form attached hereto and incorporated herein as Exhibit C, in favor of City, evidencing the Development Loan.

(bb) **"Effective Date"** has the meaning set forth in the first paragraph of this Agreement.

(cc) **"Escrow"** means the escrow established with the Title Company for the purpose of conveying the Property from the City to the Developer.

(dd) **"Financing Plan"** means the Developer's plan for financing the development of the Development, including a detailed development budget, construction and permanent financing commitment letters, and a commitment letter from the Investor, to be approved by the City Manager pursuant to Section 2.3, and which may be revised from time to time with the approval of the City Manager pursuant to this Agreement.

(ee) **"Financing Proposal"** means the Developer's initial financing proposal for financing the development of the Development, dated as of October 7, 2020, and signed by the City Manager, as such Financing Proposal is updated in accordance with Section 2.3 until the updated Financing Proposal has been approved by the City Manager in accordance with Section 2.3 as the Financing Plan.

(ff) **"General Partner"** means any general partner of the Developer when the Developer is in the form of a limited partnership.

(gg) **"Grant Deed"** means the grant deed by which the City shall convey the Property to the Developer substantially in the form of Exhibit B.

(hh) **"Hazardous Materials"** means any substance, material, or waste which is: (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant" or any other terms comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; (6) mold; (7) MTBE; or (8) determined

by California, federal or local government authority to be capable of posing a risk of injury to health, safety or property. Without limiting the foregoing, Hazardous Materials means and includes any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous, toxic or radioactive substance, or other similar term, by any Hazardous Materials Laws including any federal, state or local environmental statute, regulation or ordinance presently in effect that may be promulgated in the future, as such as statutes, regulations and ordinances may be amended from time to time.

The term "Hazardous Materials" shall not include: (i) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of commercial properties, buildings and grounds, or typically used in office or residential activities; or (ii) certain substances which may contain chemicals listed by the State of California pursuant to California Health & Safety Code Section 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Improvements, including, but not limited to, alcoholic beverages, aspirin, tobacco products, NutraSweet and saccharine, so long as such materials and substances are stored, used and disposed of in compliance with all applicable Hazardous Materials Laws.

(ii) **"Hazardous Materials Laws"** means all federal, state, and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials in, on or under the Development or any portion thereof.

(jj) **"Housing Asset Fund"** means the Low and Moderate Income Housing Asset Fund established by Health and Safety Code Section 34176.1 that the City holds as the housing successor to the dissolved Orange Redevelopment Agency, and which must be used in accordance with Health and Safety Code Section 34176.1.

(kk) **"Housing Asset Fund Loan"** means the loan the City agrees to make to the Developer from funds in the Housing Asset Fund in the approximate amount of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) to assist Developer in funding the Development.

(ll) **"Housing Asset Fund Loan Note"** shall mean a promissory note, substantially in the form attached hereto and incorporated herein as Exhibit D, in favor of City, evidencing the Housing Asset Fund Loan.

(mm) **"Improvements"** means: (i) the 62-unit affordable housing development comprised of 18 two-bedroom units and 44 three-bedroom units, with 1 two-bedroom manager's unit; and (ii) related parking and other improvements located or to be located on the Property as set forth in the Applicable Land Use Approvals.

(nn) **"Investor"** means a reputable equity investor committed to purchasing a limited partnership interest, or otherwise being admitted as a limited partner, in the Developer when the Developer is in the form of a limited partnership.

(oo) **"Land Loan"** shall mean the take-back loan to be provided by City to Developer in the amount of Three Million Dollars (\$3,000,000), which is the portion of the Purchase Price for the Property that the City agrees to take back as a loan.

(pp) **"Land Loan Note"** shall mean a promissory note, substantially in the form attached hereto and incorporated herein as Exhibit E, in favor of City, evidencing the Land Loan.

(qq) **"Management Agent"** shall mean the professional property management company retained by the Developer, as reasonably acceptable to the City, to perform the day-to-day property management of the Development.

(rr) **"New Appraisal"** has the meaning set forth in Section 2.6(a).

(ss) **"Notice of Affordability Restrictions"** means the Notice of Affordability Restrictions on Transfer of Property between the City and the Developer to be recorded against the Property pursuant to Health and Safety Code Sections 33334.3, or any successor provision of law. The form of the Notice of Affordability Restrictions is attached hereto as Exhibit I.

(tt) **"Official Records"** means the official records of the County of Orange.

(uu) **"OHDC"** means Orange Housing Development Corporation, a California nonprofit public benefit corporation, and its permitted successors and assigns as set forth herein.

(vv) **"Option Agreement"** has the meaning set forth in Recital B.

(ww) **"Parties"** means the City and the Developer; **"Party"** means either the City or the Developer.

(xx) **"Partnership Agreement"** means the partnership agreement of the Developer, when it is in the form of a limited partnership, as may be amended from time to time.

(yy) **"Property"** means the real property to be developed by the Developer pursuant to this Agreement, which real property is more particularly described in Exhibit A-1 and depicted on Exhibit A-2.

(zz) **"Purchase Price"** means the purchase price for the Property in the amount Four Million Thirty Thousand Dollars (\$4,030,000), which is the fair market value for the Property established by the Appraisal, as may be revised by the New Appraisal.

(aaa) **"Regulatory Agreement"** means the regulatory agreement and declaration of restrictive covenants, to be executed by the Parties and recorded against the Property at the Closing, substantially in the form attached hereto as Exhibit H.

(bbb) **"Schedule of Performance"** means the summary schedule of actions to be taken by the Parties pursuant to this Agreement to achieve disposition of the Property to the Developer and the development of the Improvements. The Schedule of Performance is attached to this Agreement as Exhibit G.

(ccc) **"Security Financing Interest"** has the meaning set forth in Section 9.1.

(ddd) **"Senior Lender"** has the meaning set forth in Section 4.8.

(eee) "**Supplemental Financing**" means any financing received by the Developer for the Development, other than the City Loan, including but not limited to, the Tax Credit Funds.

(fff) "**Tax Credit Funds**" means the proceeds from the sale of limited partnership interests in the Developer (when in the form of a limited partnership) to the Investor in the anticipated amount set forth in the Financing Plan, or such other amount as may be approved by the City in an amended Financing Plan.

(ggg) "**Tax Credit Reservation**" means a tax-exempt reservation of 4% low income housing tax credits from TCAC.

(hhh) "**Tax-Exempt Bond Allocation**" means an allocation of tax-exempt housing revenue bonds for qualified residential rental projects from CDLAC.

(iii) "**TCAC Reservation Cycle**" means the application funding round, or cycle, for the reservation of 4% low income housing tax credits established by TCAC.

(jjj) "**TCAC**" means the California Tax Credit Allocation Committee.

(kkk) "**Term**" means the term of this Agreement, which shall commence on the Effective Date and shall continue until the earlier of: (i) the fifty-fifth (55th) anniversary of the date of issuance of the Certificate of Completion for the Development; or (ii) December 31, 2078.

(lll) "**Title Company**" means Ticor Title Company, 1500 Quail Street, 3rd Floor, Newport Beach, CA 92660 unless modified by the Parties.

(mmm) "**Transfer**" has the meaning set forth in Section 7.1.

Section 1.2 Exhibits. The following exhibits are attached to and incorporated in the Agreement:

- Exhibit A-1: Legal Description of the Property
- Exhibit A-2: Site Map of the Property
- Exhibit B: Form of Grant Deed
- Exhibit C: Form of Development Loan Note
- Exhibit D: Form of Housing Asset Fund Loan Note
- Exhibit E: Form of Land Loan Note
- Exhibit F: Form of Deed of Trust
- Exhibit G: Schedule of Performance
- Exhibit H: Form of Regulatory Agreement
- Exhibit I: Form of Notice of Affordability Restrictions

ARTICLE 2.
PREDISPOSITION REQUIREMENTS TO THE
CONVEYANCE OF THE PROPERTY

Section 2.1 Conditions Precedent to Conveyance of Property. The requirements set forth in this Article are conditions precedent to the City's obligations to convey the Property to the Developer. The City's obligation to convey the Property to the Developer shall be subject to the satisfaction of all such conditions precedent prior to the date or dates set forth in the Schedule of Performance, unless otherwise waived by the City. The conditions set forth in this Article 2 are solely for the benefit of the City and may only be waived by the City pursuant to Section 10.15.

Section 2.2 Applicable Land Use Approvals. Prior to or as of the Effective Date, the City has approved all Applicable Land Use Approvals for the Development.

Section 2.3 Financing Proposal and Financing Plan. As of the Effective Date, the City Manager has approved the Financing Proposal, provided however, that the City Manager's approval of the Financing Proposal is not an approval or agreement by the City to fund any Home Investment Partnerships Program (HOME) funds shown on the Financing Proposal, which are subject to separate approval processes by the City. The Developer shall periodically submit updated and revised Financing Proposals, together with commitment letters for all Supplemental Financing as they are received, and set forth the Developer's revisions to the Financing Proposal based on such commitment letters, to the City Manager for approval, as and when such information becomes available. The City Manager shall reasonably approve or disapprove the revised Financing Proposal in writing within fifteen (15) calendar days after the City Manager's receipt. If the City Manager fails to provide a written disapproval notice to the Developer within such fifteen (15) day period, then such revised Financing Proposal shall be deemed approved by the City Manager. Upon receipt of commitment letters for all Supplemental Financing, including the Investor's equity commitment, Developer shall submit a final Financing Proposal. Upon City Manager approval, or deemed approval, of the Developer's final Financing Proposal, such proposal shall become the "**Financing Plan**". If any updated and revised Financing Proposal is disapproved by the City Manager, the City Manager shall set forth the reasonable grounds for disapproval, and the Developer shall have thirty (30) calendar days from the date of the Developer's receipt of the City Manager's notice of disapproval to submit a revised Financing Proposal. The provisions of this Section relating to time periods for approval, disapproval and resubmission of a new Financing Proposal shall continue to apply until the revised Financing Proposal has been approved by the City Manager as the Financing Plan; provided, however, that if the City Manager's approval of the revised Financing Plan has not been obtained by the date set forth in the Schedule of Performance for Closing due to the Developer's failure to incorporate reasonable modifications required by the City Manager, then the City may declare a Developer Event of Default, as set forth in Section 8.4, and if such default is not cured by the Developer in accordance with this Agreement, then the City may terminate this Agreement pursuant to Section 8.4.

Developer's Financing Proposal assumes the Developer will receive a Tax-Exempt Bond Allocation, which entitles Developer to a Tax Credit Reservation. The Tax Credit Reservation will allow the Developer to seek Tax Credit Funds as one of the sources to finance the Development. Developer shall apply for a Tax-Exempt Bond Allocation and Tax Credit Reservation in all possible CDLAC Allocation Cycles and TCAC Reservation Cycle for which the Developer determines it has a viable application during calendar years 2021 and 2022 and shall

provide evidence to the City of its applications for the Tax-Exempt Bond Allocation and Tax Credit Reservation. If Developer does not receive a Tax Credit Reservation as a result of such applications by the time of the award of a Tax-Exempt Bond Allocation for the final CDLAC Allocation Cycle in 2022 or if Developer does not receive sufficient commitments for other Supplemental Financing by December 31, 2022, the Parties agree to meet and confer in good faith for a period of ninety (90) days to determine if a feasible and mutually acceptable alternate arrangement can be made to finance development of the Development. If no agreement is reached by the Parties within such ninety (90) day period regarding the alternative courses of action described in the preceding sentence, this Agreement may be terminated under Section 8.2 of this Agreement, upon fifteen (15) days' written notice by one Party to the other Party. Any agreement that is reached between the Parties on an alternative financing plan for the Development shall be memorialized in an implementation agreement to this Agreement. Failure of Developer to obtain a Tax-Exempt Bond Allocation or Tax Credit Reservation shall not constitute a default under the terms of this Agreement, unless due to the failure of Developer to use good faith efforts to apply for the Tax-Exempt Bond Allocation and the Tax Credit Reservation as required in this Section 2.3.

All Supplemental Financing necessary to develop the Development, as approved by the City in the Financing Plan, shall be closed by or committed in a firm and enforceable commitment to the Developer prior to, or simultaneously with, the conveyance of the Property by the City to the Developer. The Developer shall also submit to the City evidence, reasonably satisfactory to the City that any conditions to the release or expenditure of the Supplemental Financing described in the approved Financing Plan as the sources of funds to pay the costs developing the Development have been met, or will be met upon conveyance of the Property to the Developer, and that such funds will be available, subject to the Developer's satisfaction of disbursement preconditions required to be satisfied on a periodic basis, for developing the Development.

Section 2.4 Building Permit. No later than the date set forth in the Schedule of Performance, the Developer shall apply for a building permit allowing for the construction of the Development in accordance with the Construction Plans. After submitting an application for a building permit, the Developer shall diligently pursue and obtain a building permit for the Development, and no later than the date set forth in the Schedule of Performance, the Developer shall deliver evidence to the City that the Developer is entitled to issuance of a building permit for the Development upon payment of applicable permit fees. Only upon delivery to the City of such evidence in a form reasonably satisfactory to the City shall the predisposition condition of this Section be deemed met. The City, in its capacity as a landowner and lender, shall render all reasonable assistance (at no additional cost or expense to the City) to the Developer to obtain the building permit from the City, in its capacity as a municipal regulatory authority.

Section 2.5 Execution by City and Subsequent Permit Process. The Developer acknowledges that execution of this Agreement by the City, in its capacity as a landowner and lender, does not constitute approval by the City, in its capacity as a municipal regulatory authority, of any required permits, applications, or allocations, and in no way limits the discretion of the City in the permit allocation and approval process.

Section 2.6 Insurance. The Developer shall furnish to the City evidence of the insurance coverage meeting the requirements of Section 6.9 below, no later than the date set forth in the Schedule of Performance.

Section 2.7 Appraisal.

(a) Appraisal. Prior to the Effective Date, Developer obtained an appraisal of the Property (the "**Appraisal**") prepared by Jay Wortmann, MAI, and Byron Lea, MAI, of Kinetic Valuation Group, Inc., with an effective date of March 18, 2020, who determined the fee simple value of the Property was Four Million Thirty Thousand Dollars (\$4,030,000). The Developer submitted the Appraisal to the City which the City approved. To the extent that CDLAC or TCAC requires an updated or new appraisal for any CDLAC Allocation Cycle or TCAC Reservation Cycle prior to the Closing, the Developer shall submit to the City Manager either: (i) a new appraisal, or (ii) to the extent applicable, an update by the appraiser to the Appraisal previously approved by the City (the "**New Appraisal**").

(b) City Review and Approval of New Appraisal. Upon receipt by the City Manager of the new Appraisal, the City Manager shall promptly review and either approve or disapprove of such Appraisal within ten (10) days if such Appraisal is consistent with the criteria set forth above. The City Manager shall not disapprove any Appraisal that is consistent with the applicable CDLAC and TCAC requirements. Failure of the City Manager to respond within such ten (10) day period set forth above shall be deemed approval by the City Manager. If the proposed New Appraisal is not approved by the City Manager, the City Manager shall set forth in writing and notify the Developer of the City's reasons for withholding such approval. The Developer shall thereafter submit a revised New Appraisal for City Manager approval, which approval shall be granted or denied in ten (10) days in accordance with the criteria and procedures set forth above. Failure of the City Manager to respond within the ten (10) day period set forth above shall be deemed approval by the City Manager. If the New Appraisal, approved or deemed approved by the City Manager, established a different fair market value for the Property than the Appraisal, the Purchase Price for the Property will be reset to the fair market value for the Property as set forth in the New Appraisal.

Section 2.8 Parcel Formation. City has taken all necessary steps, with the Developer's full cooperation, to create a legal parcel of the Property with the approximate size of 2.8 acres and the approximate configuration shown in Exhibit A-2, which is separate from the remainder of the City's corporation yard located at located at 637 West Struck Avenue, Orange, California.

ARTICLE 3. CONVEYANCE OF THE PROPERTY

Section 3.1 Purchase Price. Subject to the terms and conditions of this Agreement, the City shall convey the Property to the Developer, and the Developer shall accept conveyance of the Property from the City for the Purchase Price. The Developer shall pay the Purchase Price by depositing into Escrow cash in the amount of the Purchase Price less the amount of the Land Loan Note and by depositing the Land Loan Note and the Deed of Trust into Escrow, at least one (1) business day preceding the date scheduled for Closing. The Property shall be conveyed by the Grant Deed, a form of which is attached as Exhibit B.

Section 3.2 Opening Escrow. To accomplish the conveyance of the Property, the Parties shall establish an escrow with the Title Company and shall execute and deliver to the Title Company written instructions that are consistent with this Agreement.

Section 3.3 Closing Date. The Closing shall occur no later than the date set forth in the Schedule of Performance, and only in the event that all conditions precedent to conveyance set forth in Article 2 have been satisfied or waived by the City. In addition to the conditions precedent to execution of the Grant Deed as set forth in Article 2 (including but not limited to the closing of the financing set forth in the approved Financing Plan), the following conditions shall be satisfied prior to or concurrently with, and as conditions of, execution of the Grant Deed:

(a) The Developer shall be in the form of a limited partnership, the Developer has delivered to the City Manager a copy of Developer's organizational documents and the City Manager has approved the Developer's Partnership Agreement in his or her reasonable discretion.

(b) The Developer shall provide the City with a certified copy of an authorizing resolution, approving this Agreement, Developer's execution of the City Documents and the transactions contemplated by the City Documents.

(c) The Developer shall have executed and delivered to the City or, if a recordable document, to Escrow, the Grant Deed, the Development Loan Note, the Housing Asset Fund Loan Note, the Land Loan Note, the Deed of Trust, the Regulatory Agreement, the Notice of Affordability Restrictions, and any other documents and instruments required to be executed and delivered, all in a form and substance satisfactory to the City.

(d) The Property is a legally formed parcel in the approximate size of 2.8 acres.

(e) There exists no Developer Event of Default nor any act, failure, omission or condition that would constitute a Developer Event of Default under this Agreement.

(f) Developer is prepared to start construction of the Development no later than thirty (30) days after acquisition of the Property.

(g) The Grant Deed, the Deed of Trust, the Regulatory Agreement and the Notice of Affordability Restrictions will be recorded against the Property in the Office of the Recorder of the County of Orange through the acquisition escrow as liens subject only to the Security Financing Interests for those lenders in the Financing Plan, and such other exceptions reasonably authorized by the City Manager.

(h) The City has received evidence reasonably satisfactory to the City that the Developer exists in good standing at the time of the proposed closing.

(i) A title insurer reasonably acceptable to the City Manager is unconditionally and irrevocably committed to issuing a 2006 ALTA Lender's Policy of insurance insuring the lien priority of the Deed of Trust in the amount of the City Loan, subject only to such liens (if any) approved by the City in the Financing Plan as prior to the lien of the Deed of Trust and the Regulatory Agreement and such exceptions and exclusions as may be reasonably acceptable to the City and containing such endorsements as the City Manager may reasonably require.

(j) The undisbursed proceeds of the City Loan, together with other funds or firm commitments for funds that the Developer has obtained in connection with the Development, are not less than the amount that the City Manager determines is necessary to pay for construction

of the Development and to satisfy all of the covenants contained in this Agreement and the Regulatory Agreement.

(k) Developer shall have provided the City evidence that the Developer is entitled to the issuance of a building permit for the Development as set forth in Section 2.4.

(l) The City has received and approved the Financing Plan, the Developer is prepared to close all Supplemental Financing simultaneously with the conveyance of the Property to the Developer, and the Developer is eligible to receive the proceeds of all Supplemental Financing as set forth in Section 2.3.

(m) Developer has furnished the City with evidence of the insurance coverage meeting the requirements of Section 2.5.

(n) The City has received and approved any New Appraisal pursuant to Section 2.6, if applicable.

(o) All representations and warranties of the Developer contained in any part of this Agreement shall be true and correct.

Section 3.4 Condition of Title. Upon the Closing, the Developer shall have insurable fee interest to the Property which shall be free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession, except:

- (a) applicable building and zoning laws and regulations;
- (b) the provisions of this Agreement (as disclosed by the Grant Deed);
- (c) the Regulatory Agreement, the Notice of Affordability Restrictions and the Deed of Trust;
- (d) any lien for current taxes and assessments or taxes and assessments accruing subsequent to recordation of the Grant Deed;
- (e) the liens of any loan approved by the City in the Financing Plan; and
- (f) conditions, covenants, restrictions or easements currently of record or as otherwise approved by the Developer in its reasonable discretion.

Section 3.5 Condition of Property.

(a) In fulfillment of the purposes of Health and Safety Code Section 25359.7(a), the City hereby represents and warrants that it has no knowledge, and has no reasonable cause to believe, that any release of Hazardous Materials has come to be located on or beneath the Property.

(b) **"AS IS" CONVEYANCE. THE DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE CITY IS CONVEYING AND THE DEVELOPER IS OBTAINING THE PROPERTY (INCLUDING ALL EXISTING IMPROVEMENTS THEREON) ON AN "AS IS WITH ALL FAULTS" BASIS, AND**

THAT THE DEVELOPER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE CITY AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (A) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS AND RELATED CONDITIONS); (B) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY AND GROUNDWATER; (C) THE EXISTENCE, QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF UTILITIES SERVING THE PROPERTY, OR ANY OF THE IMPROVEMENTS LOCATED ON THE PROPERTY; (D) THE DEVELOPMENT POTENTIAL OF THE PROPERTY, AND THE PROPERTY'S USE, HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE PROPERTY FOR ANY PARTICULAR PURPOSE; (E) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY; (F) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE PROPERTY OR THE ADJOINING OR NEIGHBORING PROPERTY; AND (G) THE CONDITION OF TITLE TO THE PROPERTY. THE DEVELOPER AFFIRMS THAT THE DEVELOPER HAS NOT RELIED ON THE SKILL OR JUDGMENT OF THE CITY OR ANY OF ITS RESPECTIVE AGENTS, EMPLOYEES OR CONTRACTORS TO SELECT OR FURNISH THE PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT THE CITY MAKES NO WARRANTY THAT THE PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE. THE DEVELOPER ACKNOWLEDGES THAT IT SHALL USE ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE PROPERTY AND SHALL RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC AND LEGAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, WHETHER THE PROPERTY IS LOCATED IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY). THE DEVELOPER UNDERTAKES AND ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE PROPERTY'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY.

(c) Survival. The terms and conditions of this Section shall expressly survive the Closing, shall not merge with the provisions of the Grant Deed, or any other closing documents and shall be deemed to be incorporated by reference into the Grant Deed. The City is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property furnished by any contractor, agent, employee, servant or other person. The

Developer acknowledges Purchase Price of the Property reflects the "as is" nature of this conveyance, and any faults, liabilities, defects or other adverse matters that may be associated with the Property. The Developer has fully reviewed the disclaimers and waivers set forth in this Agreement with the Developer's counsel and understands the significance and effect thereof.

(d) Acknowledgment. The Developer acknowledges and agrees that (i) to the extent required to be operative, the disclaimers of warranties contained in this Section are "conspicuous" disclaimers for purposes of all applicable laws and other legal requirements, and (ii) the disclaimers and other agreements set forth in such sections are an integral part of this Agreement, the Purchase Price of the Property reflects the same and that the City would not have agreed to convey the Property to the Developer without the disclaimers and other agreements set forth in this Section.

(e) Developer's Release of the City. The Developer, on behalf of itself and anyone claiming by, through or under the Developer hereby waives its right to recover from and fully and irrevocably releases the City, and its respective council members, employees, officers, directors, representatives, and agents (the "**Released Parties**") from any and all claims, responsibility and/or liability that the Developer may have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to (i) the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise within or about any existing improvements on the Property), valuation, salability or utility of the Property, or its suitability for any purpose whatsoever, (ii) any presence of Hazardous Materials, and (iii) any information furnished by the Released Parties under or in connection with this Agreement.

(f) Scope of Release. The release set forth in this Section 3.5(f) includes claims of which the Developer is presently unaware or which the Developer does not presently suspect to exist which, if known by the Developer, would materially affect the Developer's release of the Released Parties. The Developer specifically waives the provision of any statute or principle of law that provides otherwise. In this connection and to the extent permitted by law, the Developer agrees, represents and warrants that the Developer realizes and acknowledges that factual matters now unknown to the Developer may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and the Developer further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that the Developer nevertheless hereby intends to release, discharge and acquit the City from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses. Accordingly, the Developer, on behalf of itself and anyone claiming by, through or under the Developer, hereby assumes the above-mentioned risks and hereby expressly waives any right the Developer and anyone claiming by, through or under the Developer, may have under Section 1542 of the California Civil Code, which reads as follows:

"A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

Developer's Initials:_____

Notwithstanding the foregoing, this release shall not apply to, nor shall the City be released from, the City's actual fraud or misrepresentation.

Section 3.6 Costs of Escrow and Closing. Ad valorem taxes and utilities, if any, shall be prorated as of the date of conveyance. The Developer shall pay the cost of all title insurance policies, transfer tax, Title Company document preparation, recordation fees and the escrow fees of the Title Company, if any, to close Escrow.

Section 3.7 Existing Tenants. At the Closing, the Property will be delivered to the Developer free of any rights of possession or occupancy in other parties. The City shall be solely responsible for compliance with any legally required relocation obligations. The City hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the Developer) the Developer, its partners, officers, and employees from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection therewith (including, but not limited to, reasonable attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of the City's failure to comply with any legally required relocation obligations.

ARTICLE 4. CITY LOAN PROVISIONS

Section 4.1 Use of City Loan Funds. The Developer shall use the Land Loan towards the Purchase Price of the Property, and the Development Loan and the Housing Asset Fund Loan to pay for predevelopment, acquisition, development and construction costs of the Development. The Developer will provide evidence to the City that the Developer has met this requirement upon completion of construction of the Development.

Section 4.2 City Loan Disbursement. All the proceeds of the Development Loan and the Housing Asset Fund Loan will be disbursed at Closing to pay for predevelopment, acquisition, development and construction costs of the Development. The Land Loan will be deemed fully disbursed at Closing.

Notwithstanding any other provisions of this Agreement, the City shall have no further obligation to disburse any portion of any City Loan to the Developer following: (1) termination of this Agreement; or (2) notification by the City to the Developer of a Developer Event of Default under the terms of this Agreement until such Developer Event of Default is cured.

Section 4.3 Repayment.

(a) Annual Payments. Each year the Developer shall make payments of principal and interest to the City equal to the City's Percentage of Fifty Percent (50%) of the Residual Receipts from the Project as repayment of amounts due and owing under the Development Loan Note, the Housing Asset Fund Loan Note, the Land Loan Note, and any other loan made by the City for the Development, in the order determined by the City. Such annual payments shall be due and payable in arrears no later than July 1 of each year with respect to the previous calendar year, commencing on the earlier of: (i) July 1st of the first year after the City's issuance of a Certificate of Completion for the Improvements, or (ii) July 1, 2025, (unless such

date is extended in writing by the City), and shall be accompanied by the Developer's report of Residual Receipts. The Developer shall provide the City with any documentation reasonably requested by the City to substantiate the Developer's determination of Residual Receipts. Repayments shall be credited first to interest, then to principal to each loan made by the City to the Developer for the Development, in the order determined by the City, regardless if such loan is made under this Agreement or another agreement between the City and the Developer. Interest that has accrued but for which Residual Receipts are not available in a given year shall be deferred to the following year. The Developer may retain fifty percent (50%) of Residual Receipts. The City may loan the Developer HOME Investment Partnerships Program ("HOME") funds in the future and may require those future loan proceeds to pay down the City Loan made under this Agreement or for other Development uses as agreed by the City and the Developer.

(b) Payment in Full. Regardless of the availability of Residual Receipts, all principal and interest on the City Loan shall be due upon the earliest of:

(i) a Transfer of the Development other than a Transfer permitted or approved by the City as provided in this Agreement;

(ii) the occurrence of a Developer Event of Default for which the City exercises its right to cause the City Loan indebtedness to become immediately due and payable, or for which the City Loan indebtedness is automatically specified to become immediately due and payable pursuant to applicable subsections of Section 8.4 below; or

(iii) the expiration of the Term.

(c) Special Definitions. The following special definitions shall apply for purposes of this Section 4.3:

(i) **"Annual Operating Expenses"** with respect to a particular calendar year shall mean the following costs reasonably and actually incurred for operation and maintenance of the Development, using generally accepted accounting principles: debt service currently due on a non-optional basis (excluding debt service due from residual receipts, cash flow or surplus cash of the Development) on loans associated with development of the Development and approved by the City in the Financing Plan; property and other taxes and assessments imposed on the Development; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, trash collection, gas, and electricity; maintenance and repair, including but not limited to, pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial supplies and maintenance oversight fee; any annual license or certificate of occupancy fees required for operation of the Development; general administrative expenses including, but not limited to, advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns; bookkeeping fees, property management fees not to exceed eight percent (8%) of gross revenues from the Development plus reimbursements including on-site manager costs and reimbursements which are standard in the industry; reasonable fees for any services required to be provided by CDLAC pursuant to the Tax-Exempt Bond Allocation or TCAC pursuant to the Tax Credit Reservation, or otherwise required by CDLAC or TCAC, or any other lender set forth on the Financing Plan; any fees or costs in connection with resident/social services provided; social services oversight fee in a reasonable amount given comparable fees for

such services at that time; cash deposited into a reserve for capital replacements of Development improvements in such reasonable amounts as are approved by Senior Lenders to the Development and the Investor; any current and accrued annual asset management fee, or similar fee, paid to Investor or its designee, with annual earnings in an amount not to exceed Seven Thousand Dollars (\$7,000) increasing annually by three percent (3%); any current and accrued annual partnership management fee, or similar fee, paid to the managing general partner of the Developer, with annual earnings in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000) increasing annually by three percent (3%); payment of any previously unpaid portion of the Development Fee due (with interest at a rate not to exceed the applicable federal rate) not exceeding a cumulative amount of the Development Fee as set forth in Section 4.6; cash deposited into an operating reserve in such reasonable amounts as are approved by Senior Lenders to the Development and the Investor; capital adjusted under the Partnership Agreement; repayment of any advances or loans made by a partner to fund operating shortfalls; extraordinary operating costs specifically approved by the City; and other ordinary and reasonable operating expenses not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account.

(ii) **"City's Percentage"** means the percentage calculated by dividing (1) the original principal amount of the total amount of the City Loan actually disbursed to Borrower by (2) the sum of the original principal amount of the total amount of the City Loan actually disbursed to Borrower plus the original principal amounts of loans made and actually disbursed by other lenders to Borrower payable from Residual Receipts. For example, if City and County are the only lenders whose loans are to be repaid from Residual Receipts, and the City Loan is four (4) times greater than the County's Loan, then City shall be entitled to forty percent (40%) of the Residual Receipts and County shall be entitled to ten percent (10%) of the Residual Receipts.

(iii) **"Gross Revenue"** with respect to a particular calendar year shall mean all revenue, income, receipts, and other consideration actually received from the operation and leasing of the Development. Gross Revenue shall include, but not be limited to: all rents, fees and charges paid by tenants, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance; and condemnation awards for a taking of part or all of the Development for a temporary period. Gross Revenue shall not include tenants' security deposits, loan proceeds, interest earned on restricted cash (lender impounds and reserves), or similar advances.

(iv) **"Residual Receipts"** with respect to a particular calendar year shall mean the amount by which Gross Revenue (as defined above) exceeds Annual Operating Expenses (as defined above).

Section 4.4 Reports and Accounting of Residual Receipts.

(a) Audited Financial Statement. In connection with the annual payments as set forth in Section 4.3(a), within one hundred eighty (180) days of the end of the Developer's fiscal year, the Developer shall furnish to the City an audited statement duly certified by an

independent firm of certified public accountants approved by the City, setting forth in reasonable detail the computation and amount of Residual Receipts during the preceding calendar year.

(b) Books and Records. The Developer shall keep and maintain on the Property, or at its principal place of business, or elsewhere with the City's written consent, full, complete and appropriate books, records and accounts relating to the Development, including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail the Developer's calculation of Residual Receipts. Books, records and accounts relating to the Developer's compliance with the terms, provisions, covenants and conditions of this Agreement shall be kept and maintained in accordance with generally accepted accounting principles consistently applied, and shall be consistent with requirements of this Agreement which provide for the calculation of Residual Receipts on a cash basis. All such books, records, and accounts shall be open to and available for inspection by the City, its auditors or other City authorized representatives at reasonable intervals during normal business hours. Copies of all tax returns and other reports that the Developer may be required to furnish any governmental agency shall at all reasonable times be open for inspection by the City at the place that the books, records and accounts of the Developer are kept upon prior reasonable notice to the Developer. The Developer shall preserve records on which any statement of Residual Receipts is based for a period of not less than five (5) years after such statement is rendered.

Section 4.5 Prepayment. The Developer may pay the principal and any interest due on the City Loan in advance of the time for payment thereof as provided in this Agreement, without penalty; provided, however, that the Developer acknowledges that the provisions of this Agreement will be applicable to the Development for the full Term, and the provisions of the Regulatory Agreement will be applicable to the Development for the full term of the Regulatory Agreement, even though the Developer may have prepaid the City Loan.

Section 4.6 Development Fee. The maximum development fee to be paid to the Developer (or any other organization or entity, including any entity Controlled by the Developer) for development and construction management services shall be in the amount approved by TCAC (the "**Development Fee**"). The Development Fee may be reduced, or deferred, as necessary so that these funds may be utilized to pay Development cost-overruns; provided however, that the Developer shall obtain the City's prior written consent to any revision to the Financing Plan in accordance with this Agreement. Except for the Development Fee and the fees set forth in Section 4.3(c)(i), no compensation from any source shall be received by or be payable to the Developer, any entity Controlled by the Developer or any General Partner in connection with the provision of development and construction management services for the construction of the Improvements.

Section 4.7 Non-Recourse. Following recordation of the Deed of Trust, and except as provided below, the Developer shall not have any direct or indirect personal liability for payment of the principal of, or interest on, the City Loan or the performance of the covenants of the Developer under the Deed of Trust. The sole recourse of the City with respect to the principal of, or interest on, the Development Loan Note, Housing Asset Fund Loan Note, and Land Loan Note and defaults by the Developer in the performance of its covenants under the Deed of Trust shall be to the property described in the Deed of Trust; provided, however, that nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for the Development Loan Note, Housing Asset Fund Loan Note, and Land Loan Note and of all the rights and remedies of the City thereunder, or (b) be deemed in any way to impair the right of

the City to assert the unpaid principal amount of the Development Loan Note, Housing Asset Fund Loan Note, and Land Loan Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Development Loan Note, Housing Asset Fund Loan Note, and Land Loan Note and the performance of the Developer's obligations under the Deed of Trust, except as hereafter set forth; nothing contained herein is intended to relieve the Developer of its waiver of City liability in Section 3.5 and the Developer's obligation to indemnify the City under this Agreement, or liability for: (i) fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges which may create liens on the Developer's interest of the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Developer other than in accordance with the Deed of Trust; and (iv) the misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Development.

Section 4.8 Subordination. The Deed of Trust and the Regulatory Agreement shall be subordinated to the deed of trust securing the Developer's construction loan, and to other liens securing financing set forth in the Financing Plan, if any (in each case, a "**Senior Lien**"), but only on condition that all of the following conditions are satisfied:

(a) All of the proceeds of the proposed Senior Lien, less any transaction costs, must be used to provide construction and/or permanent financing for the Development.

(b) The subordination agreement(s) must be structured to minimize the risk that the Deed of Trust would be extinguished as a result of a foreclosure by the proposed lender (each, a "**Senior Lender**") or other holder of the Senior Lien. To satisfy this requirement, the subordination agreement must provide the City with adequate rights to cure any defaults by the Developer, including: (i) providing the City or its successor with copies of any notices of default at the same time and in the same manner as provided to the Developer; and (ii) providing the City with a cure period of at least sixty (60) days, or such lesser time as approved by the City in writing, to cure any default.

(c) The subordination(s) described in this section may be effective only during the original term of the Senior Lien and any refinancing of the Senior Lien.

ARTICLE 5. DEVELOPMENT OF IMPROVEMENTS

Section 5.1 Development Pursuant to Plans. The Improvements shall be developed substantially in accordance with the Construction Plans, and the terms and conditions of the land use permits and approvals and building permits, including any variances granted. The Developer shall comply with all of the duties and obligations set forth in this Article, and the Developer's failure to comply with the duties and obligations set forth in this Article shall constitute a Developer Event of Default.

Section 5.2 Commencement of Construction. The Developer shall commence construction of the Improvements no later than the date set forth in the Schedule of Performance.

Section 5.3 Completion of the Improvements. The Developer shall diligently prosecute to completion of the Improvements no later than the date set forth in the Schedule of Performance.

Section 5.4 Equal Opportunity. During the construction of the Improvements there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry or any basis prohibited by applicable law in the hiring, firing, promoting or demoting of any person engaged in the construction work.

Section 5.5 Compliance with Applicable Laws.

(a) Compliance with Laws during Construction. The Developer shall cause all construction work to be performed in compliance with (a) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (b) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. The work shall proceed only after the payment of all applicable fees, procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and the Developer shall be responsible to the City for the procurement and maintenance thereof, as may be required of the Developer and all entities engaged in work on the Property.

(b) Prevailing Wages.

(i) This Agreement has been prepared with the intention that the financial assistance provided by the City under this Agreement meets the exception set forth in Labor Code Section 1720(c)(5)(E) to the general requirement that state prevailing wages be paid in connection with construction work that is paid for in whole or in part out of public funds. However, to the extent another funding source for the Development or a future court decision or a Department of Industrial Relations determination requires the payment of prevailing wages on the Development and related requirements under the Labor Code, then the Developer shall pay prevailing wages on the Development and meet other related requirements under the Labor Code in the construction of the Development.

(ii) Without limiting the generality of the indemnification set forth in Section 10.7 below, the Developer shall indemnify, to the extent not prohibited by applicable law, the City, its councilmembers, commissioners, officials, employees and agents, against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including the Developer, or its contractors or subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq., and to comply with other related requirements under the Labor Code. The provisions of this subsection shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

Section 5.6 Construction Responsibilities. As between the City and the Developer it shall be the responsibility of the Developer to coordinate and schedule the work to be performed so that commencement and completion of the Improvements will take place in accordance with

this Agreement. The Developer shall be solely responsible for all aspects of the Developer's conduct in connection with the Development, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and the Management Agent. Any review or inspection undertaken by the City with reference to the Development is solely for the purpose of determining whether the Developer is properly discharging its obligations to the City, and should not be relied upon by the Developer or by any third parties as a warranty or representation by the City as to the quality of the design or construction of the Development.

Section 5.7 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim of lien is filed against the Property or the Improvements or a stop notice affecting the City Loan is served on the City or any other lender or other third party in connection with the Development, then the Developer shall, within thirty (30) days after such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the City a surety bond from a surety, reasonably acceptable to the City, or such other evidence reasonably acceptable to the City that the lien or stop notice has been discharged acceptable to the City in sufficient form and amount, or provide the City with other assurance satisfactory to the City that the claim of lien or stop notice will be paid or discharged.

(b) If the Developer fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section or obtain a surety bond, then in addition to any other right or remedy, the City may (but shall be under no obligation to) discharge such lien, encumbrance, charge, or claim at the Developer's expense. Alternatively, the City may require the Developer to immediately deposit with the City the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The City may use such deposit to satisfy any claim or lien that is adversely determined against the Developer.

(c) The Developer shall file a valid notice of cessation or notice of completion upon cessation of construction of the Development for a continuous period of thirty (30) days or more, and take all other reasonable steps to forestall, limit, or prevent the assertion of claims of lien against the Property and/or Improvements. The Developer authorizes the City, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that the City deems necessary or desirable to protect its interest in the Development and Property.

Section 5.8 Inspections. The Developer shall permit and facilitate, and shall require its contractors, to permit and facilitate, observation and inspection at the Development by the City during reasonable business hours for the purposes of determining compliance with this Agreement. The costs of such observation or inspection performed pursuant to this Section, if any, shall be borne by the City. The Developer acknowledges that the City is under no obligation to: (a) supervise the construction, or the means, methods, or techniques utilized in connection with the construction of the Improvements; (b) inspect the Property; or (c) inform the Developer of information obtained by the City during any inspection. Any inspection by the City during the construction of the Improvements, pursuant to this Section, is entirely for determining whether the Developer is in compliance with this Agreement and is not for the purpose of determining or informing the Developer of the quality or suitability of construction. The Developer shall not rely upon the City for any supervision or inspection of the construction of the Development. The

Developer shall rely entirely upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers. The rights granted to the City pursuant to this Section are in addition to any rights of entry and inspection the City may have in exercising its municipal regulatory authority, including, but not limited to, any inspection rights related to the building permit for the Property. The provisions of this Section 5.8 shall apply only to inspections by the City in its capacity as a landowner and lender, and not in its capacity as a municipal regulatory authority.

Section 5.9 Information. The Developer shall provide any information reasonably requested by the City in connection with the Development.

Section 5.10 Records.

(a) The Developer shall maintain complete, accurate, and current records pertaining to the Development for a period of five (5) years after the creation of such records, and shall permit any duly authorized representative of the City to inspect and copy records upon reasonable notice to the Developer. Such records shall include all invoices, receipts, and other documents related to expenditures from the City Loan funds. Records must be kept accurate and current.

(b) The City shall notify the Developer of any records it deems insufficient. The Developer shall have thirty (30) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than thirty (30) days is reasonably necessary to correct the deficiency, then the Developer shall begin to correct the deficiency within thirty (30) days and complete the correction of the deficiency as soon as reasonably possible.

Section 5.11 Financial Accounting and Amendments to Financing Plan.

(a) The Developer shall deliver to the City Manager the final cost certification for the Development, signed by Developer's accountant, at the same time it is delivered to TCAC.

(b) The Developer shall make available for examination at reasonable intervals and during normal business hours to the City annually all books, accounts, reports, files, and other papers or property with respect to all matters covered by this Agreement, and shall permit City to audit, examine, and make excerpts or transcripts from such records upon reasonable prior notice to the Developer. The City, in its reasonable discretion, may make audits of any records related to the development or operation of the Development or the Developer's compliance with the City Documents.

(c) Until the issuance of the Certificate of Completion, the Developer shall submit any required amendments to the Financing Plan to the City for approval within fifteen (15) days of the date the Developer receives information indicating that actual costs of the Development vary or will vary from the line item costs shown on the Financing Plan. The Developer may adjust line items in the Financing Plan by up to Fifty Thousand Dollars (\$50,000), provided that the total costs in the Financing Plan do not increase. Written consent of the City Manager is required for any other amendments to the Financing Plan.

Section 5.12 Certificate of Completion. Within thirty (30) days after completion of the Improvements, in accordance with those provisions of this Agreement relating solely to the obligations of the Developer to develop the Improvements (including the dates for beginning and completing construction of the Improvements), the City shall provide an instrument so certifying the completion of the construction of the Improvements (the "**Certificate of Completion**"). If the City fails to issue the Certificate of Completion within such time, the Certificate of Completion shall be deemed to have been issued unless, during that time, the City has notified Developer of the reasons why the Certificate of Completion has not been issued. The Certificate of Completion shall be conclusive determination that the covenants in this Agreement with respect to the obligations of the Developer to develop the Improvements have been met. The issuance of the Certificate of Completion shall have no effect on the Term of this Agreement (other than to establish the date on which the Term shall expire), and the remaining provisions of this Agreement (other than the provisions regarding the construction of the Improvements) shall remain in full force and effect throughout the Term. The certification shall be in such form as will enable such certificate to be recorded in the Official Records. These certifications and determinations shall not constitute evidence of compliance with the requirements of Section 5.7 or satisfaction of any obligation of the Developer to any holder of a deed of trust securing money loaned to finance the Improvements, shall not be deemed a notice of completion under the California Civil Code, nor a certificate of occupancy and shall neither hinder nor convey any rights to occupy any portion of the Improvements.

ARTICLE 6. ONGOING DEVELOPER OBLIGATIONS

Section 6.1 Applicability. The conditions and obligations set forth in this Article shall apply throughout the Term, unless a different period of applicability is specified for a particular condition or obligation. The Developer's failure to comply with the duties and obligations set forth in this Article following the expiration of any applicable cure periods shall constitute a Developer Event of Default.

Section 6.2 Use. The Developer hereby agrees that, for the entire Term, the Development will be used and continuously operated only as affordable housing in accordance with the provisions of the Regulatory Agreement. In addition, the Developer shall comply with all other applicable laws, statutes, and regulations governing the Development, including, but not limited to the applicable requirements of Section 42 of the Code, and all CDLAC and TCAC regulations, for such time that the Development is subject to such regulations.

Section 6.3 Maintenance. The Developer hereby agrees that, prior to completion of the Improvements, the portions of the Property undergoing construction shall be maintained in a neat and orderly condition to the extent practicable and in accordance with industry health and safety standards, and that, once the Improvements are completed, the Development shall be well maintained by the Developer as to both external and internal appearance of the Improvements, the common areas, and the open spaces. The Developer shall maintain the Development in good repair and working order, and in a neat, clean and orderly condition, including the walkways, driveways, alleyways and landscaping, and from time to time make all necessary and proper repairs, renewals, and replacements.

Section 6.4 Taxes and Assessments. The Developer shall apply for and shall thereafter use good faith efforts to obtain an exemption from local property taxes pursuant to Section 214(g) of the California Revenue and Taxation Code. The Developer shall pay all unabated real property taxes on the Development, personal property taxes, assessments and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property or the Developer's fee interest in the Property; provided, however, that the Developer shall have the right to contest in good faith any such taxes, assessments, or charges. In the event the Developer exercises its right to contest any tax, assessment, or charge against it, the Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

Section 6.5 Hazardous Materials.

(a) Covenants.

(i) No Hazardous Materials Activities. The Developer hereby represents and warrants to the City that, at all times from and after the Closing, the Developer shall not cause or knowingly permit the Property, or the Improvements thereon to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any Hazardous Materials. Notwithstanding the previous sentence, Developer's representation and warranty shall not apply to any Hazardous Materials on, under or about the Property or the Improvements thereon, to the extent such Hazardous Materials were released or discharged prior to the date of conveyance of the Property to the Developer.

(ii) Hazardous Materials Laws. The Developer hereby represents and warrants to the City that, at all times from and after the Closing, the Developer shall comply and to the extent within its control cause the Property, and the Improvements thereon to comply with Hazardous Materials Laws, including without limitation, those relating to soil and groundwater conditions. Notwithstanding the previous sentence, Developer's representation and warranty shall not apply to any Hazardous Materials on, under or about the Property or the Improvements thereon, to the extent such Hazardous Materials were released or discharged prior to the date of conveyance of the Property to the Developer.

(iii) Notices. The Developer hereby represents and warrants to the City that, at all times from and after the Closing, the Developer shall, to the extent of the Developer's actual knowledge, immediately notify the City in writing of: (i) the discovery of any Hazardous Materials on or under the Property from and after the Closing; (ii) any knowledge by the Developer that the Property does not comply with any Hazardous Materials Laws; (iii) any claims or actions pending or threatened against the Developer, the Property, or the Improvements by any governmental entity or agency or any other person or entity relating to Hazardous Materials or pursuant to any Hazardous Materials Laws (collectively "**Hazardous Materials Claims**"); and (iv) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property, that could cause the Property, or any part thereof to be subject to a land use restriction pursuant to California Health and Safety Code Sections 25220, et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Development under any Hazardous Materials Laws. The

City shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims, to have its reasonable attorney's fees in connection therewith paid by the Developer.

(b) Developer Acknowledgement. The Developer hereby acknowledges and agrees that (i) this Section is intended as the City's written request for information (and Developer's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Agreement (together with any indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by the Parties to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(c) Indemnity. Without limiting the generality of the indemnification set forth in Section 10.7 below, the Developer hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the City) the City, its council members, officers, and employees from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, reasonable attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of: (1) the failure of the Developer or any other person or entity acting on behalf of the Developer (including, but not limited to, the Management Agent, or any of its employees or agents) to comply with any Hazardous Materials Law relating in any way whatsoever to the handling, treatment, presence, removal, storage, decontamination, cleanup, transportation or disposal of Hazardous Materials introduced into, on, under or from the Development by the Developer or any other person or entity acting on behalf of the Developer on or after the date of conveyance of the Property to the Developer; and (2) the presence in, on or under the Development of any Hazardous Materials or any releases or discharges of any Hazardous Materials into, on, under or from the Development to the extent such presence, release or discharge first arises on or after the date of conveyance of the Property to the Developer and is caused by Developer or anyone acting for on or behalf of the Developer; and (3) any activity carried on or undertaken on or off the Property, subsequent to the conveyance of the Property to the Developer, and whether by the Developer or any related successor in title or any employees, agents, contractors or subcontractors of the Developer or any related successor in title, or any third persons occupying or present on the Development, in connection with the handling, treatment, removal, storage, decontamination, cleanup, transport or disposal of any Hazardous Materials at any time located or present on or under the Development. The provisions of this subsection shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

(d) No Limitation. The Developer hereby acknowledges and agrees that the Developer's duties, obligations and liabilities under this Agreement, including, without limitation, under subsection (c) above, are in no way limited or otherwise affected by any information the City may have concerning the Development and/or the presence within the Development of any Hazardous Materials, whether the City obtained such information from the Developer or from its own investigations.

Section 6.6 Management Responsibilities. The Developer shall be responsible for all management functions with respect to the Development, including without limitation the selection

of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no direct, or indirect, responsibility over management of the Development; however, the Developer shall operate the Development in accordance with this Agreement and the Regulatory Agreement, in a manner acceptable to the City. At all times during the Term, the Developer shall retain the Management Agent approved by the City in its reasonable discretion in accordance with Section 6.7 to perform its management duties hereunder. A resident manager shall also be required in accordance with applicable law.

Section 6.7 Management Agent. The Development shall at all times be managed by an experienced Management Agent reasonably acceptable to the City, with demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing. The City hereby approves Advanced Property Services Management, Inc., a California corporation, as the initial Management Agent. The Developer shall submit for the City's approval the identity of any subsequently proposed Management Agent. The Developer shall also submit such additional information about the background, experience and financial condition of any subsequently proposed Management Agent as is reasonably necessary for the City to determine whether the subsequently proposed Management Agent meets the standard for a qualified Management Agent set forth above. If the proposed Management Agent meets the standard for a qualified Management Agent set forth above, the City shall approve the subsequently proposed Management Agent by notifying the Developer in writing. Unless the subsequently proposed Management Agent is disapproved by the City within thirty (30) days, which disapproval shall state with reasonable specificity the basis for disapproval, the subsequently proposed Management Agent shall be deemed approved. If the proposed Management Agent is disapproved by the City for failing to meet the standard for a qualified Management Agent set forth above, the Developer shall submit for the City's approval a new proposed Management Agent within thirty (30) days following the City's disapproval. The Developer shall continue to submit proposed management agents for City approval until the City approves a proposed Management Agent.

Section 6.8 Approval of Management Plans and Policies. Prior to the initial leasing of any of the Units at the Property, and annually thereafter to the extent of any amendments thereto, the Developer shall submit its written management plan and policies with respect to the Development to the City for its review (the "**Management Plan**"). Such documentation shall include, among other things, written guidelines or procedures for tenant selection, operation and management of the Development, implementation of the income certification and reporting requirements of the Regulatory Agreement, the Developer's proposed social services provider, the proposed agreement between the Developer and the social services provider, and the proposed operating plan for social services to be provided to the residents of the Development.

Section 6.9 Insurance Requirements.

(a) Required Coverage. The Developer shall maintain and keep in force, at the Developer's sole cost and expense, the following insurance applicable to the Development:

(i) To the extent required by law, Worker's Compensation insurance, including Employer's Liability coverage, with limits not less than required by applicable law.

(ii) Comprehensive or Commercial General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence and Four Million Dollars (\$4,000,000) in the aggregate combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(iii) Comprehensive Automobile Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable; provided, however, such automobile insurance shall only be required to the extent the Developer owns automobiles.

(iv) Property insurance covering the Development covering all risks of loss, including earthquake (but only if required by the Investor or by another lender) and flood, if the Property is located in a flood zone, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the City, naming the City as a Loss Payee, as its interest may appear.

(b) Contractor's Insurance. The Developer shall cause any general contractor working on the Development under direct contract with the Developer (including, but not limited to, the Developer's architect) to maintain insurance of the types and in at least the minimum amounts described in subsections (a)(i), (a)(ii), and (a)(iii) above, and shall require that such insurance shall meet all of the general requirements of subsection (c) below. Subcontractors working on the Development under indirect contract with the Developer shall be required to maintain the insurance described in subsections (a)(i), (a)(ii) and (a)(iii) above. Liability and Comprehensive Automobile Liability insurance to be maintained by such contractors and agents pursuant to this subsection shall name as additional insureds the City, councilmembers, officers, agents, and employees.

(c) General Requirements. The required insurance shall be provided on an occurrence basis, and the Developer shall maintain such coverage continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

Comprehensive General Liability, Comprehensive Automobile Liability and Property insurance policies shall be endorsed to name as additional insureds the City and its council members, officers, agents, and employees. All policies and bonds shall contain (a) the agreement of the insurer to give the City at least thirty (30) days' notice prior to cancellation (including, without limitation, for nonpayment of premium) or any material change in said policies; (b) an agreement that such policies are primary and noncontributing with any insurance that may be carried by the City; (c) a provision that no act or omission of the Developer shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (d) a waiver by the insurer of all rights of subrogation against the City and its authorized parties in connection with any loss or damage thereby insured against.

(d) Certificates of Insurance. Upon the City's request at any time during the Term of this Agreement, the Developer shall provide certificates of insurance, in form and with insurers reasonable acceptable to the City, evidencing compliance with the requirements of this Section, and shall provide complete copies of such insurance policies, including a separate endorsement naming the City as additional insured, if requested by the City.

ARTICLE 7. ASSIGNMENT AND TRANSFERS

Section 7.1 Definitions. As used in this Article, the term "**Transfer**" means:

(a) Any total or partial sale, assignment or conveyance, or any trust or power, or any transfer in any other mode or form, of or with respect to this Agreement or of the Development or any part thereof or any interest therein or any contract or agreement to do any of the same; or

(b) Any total or partial sale, assignment or conveyance, or any trust or power, or any transfer in any other mode or form, of or with respect to any ownership interest in Developer or any contract or agreement to do any of the same; or

(c) Any merger, consolidation, sale or lease of all or substantially all of the assets of Developer.

Section 7.2 Purpose of Restrictions on Transfer. This Agreement is entered into solely for the purpose of development and operation of the Development and its subsequent use in accordance with the terms hereof. The Developer recognizes that the qualifications and identity of the Developer are of particular concern to the City, in view of:

(a) The importance of the development of the Property to the general welfare of the community; and

(b) The land acquisition assistance and other public aids that have been made available by law and by the government for the purpose of making such development possible; and

(c) The reliance by the City upon the unique qualifications and ability of the Developer to serve as the catalyst for development of the Property and upon the continuing interest which the Developer will have in the Property to assure the quality of the use, operation and maintenance deemed critical by the City in the development of the Property; and

(d) The fact that a change in ownership or control of the owner of the Property, or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in ownership or with respect to the identity of the parties in control of the Developer or the degree thereof is for practical purposes a transfer or disposition of the Property; and

(e) The fact that the Property is not to be acquired or used for speculation, but only for development and operation by the Developer in accordance with the Agreement; and

(f) The importance to the City and the community of the standards of use, operation, and maintenance of the Property; and

(g) The Developer further recognizes that it is because of such qualifications and identity that the City is entering into this Agreement with the Developer and that Transfers are permitted only as provided in this Agreement.

Section 7.3 Prohibited Transfers. The limitations on Transfers set forth in this Section shall apply until expiration of the Term. Except as expressly permitted in this Agreement, the Developer represents and agrees that the Developer has not made or created, and will not make or create or suffer to be made or created, any Transfer, either voluntarily or by operation of law without the prior written approval of the City. Any Transfer made in contravention of this Section shall be void and shall be deemed to be a default under this Agreement whether or not the Developer knew of or participated in such Transfer.

Section 7.4 Permitted Transfers. Notwithstanding the provisions of Section 7.3, the Transfers set forth below shall be permitted and are hereby approved by the City. For a Transfer described in subsections (d) and (i) below, the person or entity to which such Transfer is made shall expressly and unconditionally assume in a written assignment and assumption agreement between such person or entity, Developer and City that is in a form reasonably acceptable to City (as evidenced by execution of such assignment and assumption agreement by the City Manager), all obligations of Developer under this Agreement:

(a) Any Transfer creating a Security Financing Interest permitted pursuant to the approved Financing Plan.

(b) Any Transfer directly resulting from the foreclosure of a Security Financing Interest or the granting of a deed in lieu of foreclosure of a Security Financing Interest or as otherwise permitted under Article 9.

(c) Any Transfer of stock or equity in any party that does not change management or operational Control of the Developer, with no material change in beneficial ownership (with the exception of any conveyance to member(s) of the immediate family(ies) of the transferor(s) or trusts for their benefit) and which constitutes a tax-free transaction under Federal income tax law and California real estate transfer tax.

(d) Any Transfer of this Agreement or the Property or the Development by the Developer to a to-be-formed limited partnership in which a general partner is an Affiliate of C&C and the managing general partner is an Affiliate of OHDC .

(e) The lease of residential units in the Development consistent with this Agreement and the Regulatory Agreement.

(f) The admission of the Investor as a limited partner of the Developer for the purposes of syndicating the tax credits provided under the Tax Credit Reservation to the Investor to obtain the Tax Credit Funds, and the transfer and sale of limited partnership interests in Developer while the Developer is in the form of a limited partnership.

(g) In the event that any general partner of the Developer, while the Developer is in the form of a limited partnership, is removed by the Investor for cause following default under the Partnership Agreement, the Transfer of any general partner interest to a 501(c)(3) tax exempt nonprofit corporation or Affiliate selected by the Investor and approved by the City, which approval shall not be withheld unreasonably, delayed or conditioned.

(h) The grant and exercise of a right of first refusal in connection with the tax credit syndication of the Property.

(i) The Transfer of the Development from Developer, while the Developer is in the form of a limited partnership, to one or more of the general partners of the Developer or their Affiliates at the end of the tax credit compliance period for the Development.

(j) Any dilution of a general partner's interest in the Developer while the Developer is in the form of a limited partnership, in accordance with the Developer's limited partnership agreement.

Section 7.5 Other Transfers with City Consent. The City may, in its sole discretion, approve in writing other Transfers as requested by the Developer. In connection with such request, there shall be submitted to the City for review all instruments and other legal documents proposed to affect any such Transfer. If a requested Transfer is approved by the City such approval shall be indicated to the Developer in writing. Such approval shall be granted or denied by the City within thirty (30) days after receipt by the City of Developer's request for approval of a Transfer. Upon such approval, if granted, the transferee, by an instrument in writing prepared by the City and in form recordable among the Official Records, shall expressly assume the obligations of the Developer under this Agreement, and the City Documents, and agree to be subject to the conditions and restrictions to which the Developer is subject arising during this Agreement and from the City Documents, to the fullest extent that such obligations are applicable to the particular portion of or interest in the Development conveyed in such Transfer. In the absence of specific written agreement by the City, no such Transfer, assignment or approval by the City shall be deemed to relieve the Developer or any other party from any obligations under this Agreement.

ARTICLE 8. DEFAULT AND REMEDIES

Section 8.1 General Applicability. The provisions of this Article shall govern the Parties' remedies for breach or failure of this Agreement.

Section 8.2 No Fault of Parties. The following events constitute a basis for a Party to terminate this Agreement without the fault of the other:

(a) The Developer, despite good faith and diligent efforts, is unable to satisfy all of the conditions precedent to the City's obligation to execute the Grant Deed set forth in Article 2 by no later than the dates set forth in the Schedule of Performance; or

(b) The City, despite good faith and diligent efforts, is unable to execute the Grant Deed and convey the Property to the Developer and the Developer is otherwise entitled to the conveyance of the Property; or

(c) The Parties are unable to agree on a feasible and mutually acceptable alternate arrangement to finance development of the Development after good faith efforts to meet and confer within the ninety (90) day period as provided in Section 2.3.

Upon the happening of any of the above-described events, and at the election of either Party, this Agreement may be terminated by written notice to the other Party (or fifteen (15) days after written notice in the case of a termination under subsection (c)). After termination, neither Party shall have any rights against nor liability to the other under this Agreement except that the waiver and indemnification provisions set forth herein shall survive such termination and remain in full force and effect.

Section 8.3 Fault of City. Except as to events constituting a basis for termination under Section 8.2, the following events each constitute a City Event of Default and a basis for the Developer to take action against the City:

(a) The City, unless legally precluded from doing so, fails to convey the Property to the Developer within the time and in the manner set forth in Article 3 and the Developer is otherwise entitled by this Agreement to such conveyance; or

(b) The City breaches any other material provision of this Agreement.

Upon the happening of any of the above-described events, the Developer shall first notify the City in writing of its purported breach or failure, giving the City thirty (30) days from receipt of such notice to cure or, if cure cannot be accomplished within thirty (30) days, to commence to cure such breach, failure, or act. In the event the City does not then so cure within said thirty (30) days, or if the breach or failure is of such a nature that it cannot be cured within thirty (30) days, the City fails to commence to cure within such thirty (30) days and thereafter diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, then the Developer shall be afforded all of its rights at law or in equity, including without limitation the following remedies: (1) terminating in writing this Agreement (provided, however, that the waiver and indemnification provisions set forth herein shall survive such termination); and (2) prosecuting an action for specific performance.

Section 8.4 Fault of Developer. Except as to events constituting a basis for termination under Section 8.2, the following events each constitute a Developer Event of Default and a basis for the City to take action against the Developer:

(a) The Developer fails to exercise good faith and diligent efforts to satisfy, within the time set forth in the Schedule of Performance, one or more of the conditions precedent to the City's obligation to convey the Property to the Developer;

(b) The Developer refuses to execute the Grant Deed within the time set forth in the Schedule of Performance and under the terms set forth in Article 3;

(c) The Developer fails to comply with any obligation or requirement set forth in Article 4 (including, but not limited to the Developer's failure to repay the City Loan);

(d) The Developer constructs or attempts to develop the Development or otherwise redevelop the Property in violation of Article 5;

(e) The Developer has not satisfied all preconditions set forth in this Agreement to commencement of construction of the Improvements by the date set forth in the Schedule of Performance, or fails to commence or complete the construction of the Improvements within the times set forth in the Schedule of Performance, or abandons or suspends construction of the Improvements prior to completion of all construction for a period of thirty (30) days after written notice by the City of such abandonment or suspension;

(f) The Developer fails to comply with, or fails to cause the Management Agent to comply with, any obligations or requirement set forth in Article 6;

(g) A Transfer occurs, either voluntarily or involuntarily, in violation of Article 7;

(h) Any representation or warranty contained in this Agreement or in any application, financial statement, certificate or report submitted to the City in connection with this Agreement proves to have been incorrect in any material and adverse respect when made;

(i) An event of default occurs under any of the City Documents;

(j) A court having jurisdiction shall have made or entered any decree or order (1) adjudging the Developer to be bankrupt or insolvent, (2) approving as properly filed a petition seeking reorganization of the Developer or seeking any arrangement for the Developer under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (3) appointing a receiver, trustee, liquidator, or assignee of the Developer in bankruptcy or insolvency or for any of their properties, or (4) directing the winding up or liquidation of the Developer, if any such decree or order described in clauses (1) to (4), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period will apply under this subsection (j) as well; or the Developer shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (1) to (4), inclusive;

(k) The Developer shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period shall apply under this subsection (k) as well) or prior to sooner sale pursuant to such sequestration, attachment, or execution. In the event that the Developer is diligently working to obtain a return or release of the property, as determined in the City's reasonable business judgment, and the City's interests under the Agreement are not immediately threatened, in the City's reasonable business judgment, the City shall not declare a default under this subsection;

(l) The Developer shall have voluntarily suspended its business or, if the Developer is a partnership, the partnership shall have been dissolved or terminated; or

(m) The Developer breaches any other material provision of this Agreement.

Upon the happening of any of the above-described events, except for Developer's failure to make an application to apply for a Tax-Exempt Bond Allocation or a Tax Credit Reservation as provided in Section 2.3, in which case the City may terminate this Agreement upon fifteen (15) days' written notice as provided in Section 2.3, the City shall first notify the Developer in writing of its purported breach, failure or act above described, giving the Developer thirty (30) days from receipt of such notice to cure, or, if cure cannot be accomplished within said thirty (30) days, to commence to cure such breach, failure, or act. In the event the Developer fails to apply for a Tax-Exempt Bond Allocation or a Tax Credit Reservation as provided in Section 2.3, cure a breach within said thirty (30) days, or if such breach is of a nature that it cannot be cured within thirty (30) days, Developer fails to commence to cure, and diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, then the City shall be afforded all of its rights at law or in equity by taking any or all of the following remedies:

(i) Termination of this Agreement by written notice to the Developer; provided, however, that the City's remedies pursuant to this Article or any other City Document and the waiver and indemnification provisions of this Agreement shall survive such termination; and/or

(ii) Acceleration of the City Loan.

The City shall accept a cure made by the Investor, or any other partner of the Developer, of a Developer Event of Default under any of the City Documents in accordance with such document(s) as if such cure was made directly by the Developer. In addition, as a condition to the tender of a cure by the Investor or any other partner of the Developer, the City agrees that the dates in the Schedule of Performance shall be extended as reasonably necessary to permit the party tendering such cure to complete the applicable tasks in the Schedule of Performance. Additionally, if a cure by the Investor requires removal of the General Partner, the City will not exercise its right to terminate this Agreement for so long as the Investor is proceeding diligently to remove the defaulting General Partner in order to effect such cure.

Section 8.5 Right to Cure at Developer's Expense. The City shall have the right to cure any monetary default by the Developer under a loan in connection with the Development. The Developer agrees to reimburse the City for any funds advanced by the City to cure a monetary default by the Developer upon demand therefor, together with interest thereon at the lesser of the rate of ten percent (10%) per annum or the maximum rate permitted by law from the date of expenditure until the date of reimbursement.

Section 8.6 Construction Plans. If this Agreement is terminated pursuant to Section 8.2 or Section 8.4, then the Developer shall promptly deliver to the City, within ten (10) days of such termination, copies of all plans and specifications for the Development, all permits and approvals obtained in connection with the Development, and all applications for permits and approvals not yet obtained but needed in connection with the Development (collectively, the "**Assigned Development Documents**"). The delivery of the Assigned Development Documents shall be accompanied by an assignment, in form reasonably satisfactory to the City, of the Developer's right, title and interest in the Assigned Development Documents; provided however, that any use of the Assigned Development Documents by the City or any other person shall be without liability of any kind to the Developer and without any representation or warranty of the Developer or its employees, as to the quality, validity, or usability of the Assigned Development Documents.

Section 8.7 Acceleration of City Loan. Following an uncured Developer Event of Default, the City shall have the right to cause all indebtedness of the Developer to the City under this Agreement, and the Development Loan Note, Housing Asset Fund Loan Note, and Land Loan Note, together with any accrued interest thereon, to become immediately due and payable. The Developer waives all right to presentment, demand, protest or notice of protest or dishonor. The City may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the City as a creditor and secured party under the law, including the Uniform Commercial Code, including foreclosure under the Deed of Trust. The Developer shall be liable to pay the City on demand all expenses, costs and fees (including, without limitation, reasonable attorneys' fees and expenses and other professional service fees and expenses) paid or incurred by the City in connection with the collection of the City Loan and the amounts due under the Development Loan Note, Housing Asset Fund Loan Note, and Land Loan Note, and the preservation, maintenance, protection, sale, or other disposition of the security given for the City Loan and the amounts due under the Development Loan Note, Housing Asset Fund Loan Note, and Land Loan Note.

Section 8.8 Remedies Cumulative. No right, power, or remedy given by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise. Neither the failure nor any delay to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 8.9 Waiver of Terms and Conditions. No waiver of any default or breach by the Developer hereunder shall be implied from any omission by the City to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by the City to or of any act by the Developer requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Agreement or the other City Documents, nor shall it invalidate any act done pursuant to notice of default, or prejudice the City in the exercise of any right, power, or remedy hereunder or under this Agreement, unless in the exercise of any such right, power, or remedy all obligations of the Developer to the City are paid and discharged in full.

Section 8.10 Rights of Mortgagees. Any rights of the City under this Article, shall not defeat, limit or render invalid any lease, mortgage, deed of trust or any other security interest permitted by this Agreement or otherwise consented to by the City in writing or any rights provided for in this Agreement for the protection of holder of security interests in the Property. The City acknowledges that, upon obtaining ownership of the Property pursuant to this Article, the City shall be subject to all applicable obligations of any Security Financing Interests, defined in Section 9.1, whether or not arising before, on, or after, the date the City re-acquires the Property (other than any obligation personal to the Developer, including, but not limited to any guaranty or indemnification obligation).

ARTICLE 9. SECURITY FINANCING AND RIGHTS OF HOLDERS

Section 9.1 No Encumbrances Except for Development Purposes. Notwithstanding any other provision of this Agreement, mortgages, deeds of trust, regulatory agreements, use restrictions, or any other reasonable method of security are permitted to be placed upon the Developer's fee interest in the Property but only for the purpose of securing loans approved by the City pursuant to the approved Financing Plan. Mortgages, deeds of trust, regulatory agreements, use restrictions, or other reasonable security instruments securing loans approved by the City pursuant to the approved Financing Plan are each referred to as a "**Security Financing Interest.**" The words "mortgage" and "deed of trust" as used in this Agreement include all other appropriate modes of financing real estate construction and land development.

Section 9.2 Holder Not Obligated to Construct. The holder of any Security Financing Interest authorized by this Agreement is not obligated to construct or complete any improvements or to guarantee such construction or completion. However, nothing in this Agreement shall be deemed to permit or authorize any such holder to devote the Property or any portion thereof to any uses, or to construct any improvements thereon, other than those uses of improvements provided for or authorized by this Agreement.

Section 9.3 Notice of Default and Right to Cure. Whenever the City pursuant to its rights set forth in Article 8 of this Agreement delivers any notice or demand to the Developer with respect to the commencement, completion, or cessation of the construction of the Improvements, the City shall at the same time deliver to each holder of record of any Security Financing Interest creating a lien upon the Developer's fee interest in the Property or any portion thereof a copy of such notice or demand. Each such holder shall (insofar as the rights of the City are concerned) have the right, but not the obligation, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default or breach affecting the Property which is subject to the lien of the Security Financing Interest held by such holder and to add the cost thereof to the security interest debt and the lien on its security interest. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect such improvements or construction already made) without first having expressly assumed in writing the Developer's obligations to the City relating to such Improvements under this Agreement pursuant to an assignment and assumption agreement prepared by the City. The holder in that event must agree to complete, in the manner provided in this Agreement, the Improvements to which the lien or title of such holder relates. Any such holder properly completing such Improvements pursuant to this paragraph shall assume all rights and obligations of Developer under this Agreement and shall be entitled, upon completion and written request made to the City, to a Certificate of Completion from the City, in a form acceptable by the City.

Section 9.4 Failure of Holder to Complete Improvements. In any case where six (6) months after default by the Developer in completion of construction of the Improvements under this Agreement, the holder of record of any Security Financing Interest, having first exercised its option to construct (pursuant to the assignment and assumption agreement more particularly described in Section 9.3), has not proceeded diligently with construction, the City shall be afforded those rights against such holder it would otherwise have against Developer under this Agreement, including, but not limited to declaring a default in accordance with Article 8.

Section 9.5 Right of City to Cure. In the event of a default or breach by the Developer of a Security Financing Interest prior to the completion of development, and the holder has not exercised its option to complete the Development, the City may cure the default, prior to the completion of any foreclosure. In such event the City shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the City in curing the default. The City shall also be entitled to a lien upon the Developer's fee interest in the Property or any portion thereof to the extent of such costs and disbursements. The City agrees that such lien shall be subordinate to any Security Financing Interest, and the City shall execute from time to time any and all documentation reasonably requested by Developer to effect such subordination.

Section 9.6 Right of City to Satisfy Other Liens. Following the Closing, and after the Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the fee interest in the Property or any portion thereof (including, but not limited to, any breach or default under a Security Financing Interest) the City shall have the right to satisfy any such lien or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount therein and so long as such delay in payment shall not subject the Property or any portion thereof to forfeiture or sale.

Section 9.7 Holder to be Notified. The provisions of this Article shall be incorporated into the relevant deed of trust or mortgage evidencing each Security Financing Interest to the extent deemed necessary by, and in form and substance reasonably satisfactorily to the City, or shall be acknowledged by the holder of a Security Financing Interest prior to its coming into any security right or interest in the Property.

ARTICLE 10. GENERAL PROVISIONS

Section 10.1 Notices, Demands and Communications. Formal notices, demands, and communications between the City and the Developer shall be sufficiently given if, and shall not be deemed given unless, dispatched by registered or certified mail, postage prepaid, return receipt requested, by reputable overnight delivery service, or delivered personally, to the principal office of the City and the Developer as follows:

City: City of Orange
300 E. Chapman Avenue
Orange, CA 92866
Attn: City Manager

With a copy to:
City Attorney
City of Orange
300 E. Chapman Avenue
Orange, CA 92866

Developer: Orange Housing Development Corporation
414 East Chapman Avenue
Orange, CA 92866
Attn: Chief Executive Officer

With a copy to:
C & C Development Co., LLC
14211 Yorba Street, Suite 200
Tustin, California 92780
Attn: Todd R. Cottle

With a copy to be provided to the Investor at the address to be provided to the City via certified mail from the Developer.

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section.

Section 10.2 Non-Liability of City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or on any obligation under the terms of this Agreement.

Section 10.3 Forced Delay. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation (including suits filed by third parties concerning or arising out of this Agreement); weather (provided that such claim is documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had a material adverse impact on the Party's ability to satisfy its obligation hereunder); inability to secure necessary labor, materials or tools; acts of the other Party; acts or failure to act of any public or governmental agency or entity (other than the acts or failure to act of the City in accordance with this Agreement); or any other causes (other than Developer's inability to obtain financing for the Development in accordance with the Schedule of Performance) beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within ten (10) days from the date the Party seeking the extension first discovered the cause and such extension of time is not rejected in writing by the other Party within ten (10) days after receipt of the notice. Times of performance under this Agreement may also be extended in writing by the City and the Developer. In no event shall the cumulative delays exceed one hundred eighty (180) days, unless otherwise agreed to by the Parties in writing.

Section 10.4 Inspection of Books and Records. Upon request, the Developer shall permit the City to inspect at reasonable times and on a confidential basis those books, records and all other documents of the Developer necessary to determine Developer's compliance with the terms of this Agreement.

Section 10.5 Provision Not Merged with Grant Deed. None of the provisions of this Agreement are intended to or shall be merged by the Grant Deed transferring title to any real property which is the subject of this Agreement from City to Developer or any successor in interest, and any such grant deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.6 Title of Parts and Sections. Any titles of the articles, sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provision.

Section 10.7 Indemnification.

(a) General. The Developer agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the City) the City, its council members, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens to the extent arising out of: (i) the Developer's performance or non-performance under this Agreement, or any other agreement executed pursuant to this Agreement, including, but not limited to the failure, or alleged failure to comply with any applicable prevailing wage requirements; (ii) acts or omissions of Developer or any of Developer's contractors, subcontractors, or persons claiming under any of the aforesaid; (iii) the Developer's ownership, construction, use and operation of the Development (including, but not limited to, any claim made against the City in connection with the Developer's use or operation of the Improvements, including, but not limited to, any claim regarding tenant selection) except as directly caused by the City's willful misconduct or gross negligence; or (iv) the Developer's breach of this Agreement.

(b) Survival. The provisions of this Section shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

Section 10.8 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California.

Section 10.9 No Brokers. Each Party represents to the other that it has not had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee. If any broker or finder makes a claim for a commission or finder's fee based upon a contact, dealings, or communications, the Party through whom the broker or finder makes this claim shall indemnify, defend with counsel of the indemnified Party's choice, and hold the indemnified Party harmless from all expense, loss, damage and claims, including the indemnified Party's attorneys' fees, if necessary, arising out of the broker's or finder's claim. The provisions of this Section shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

Section 10.10 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 10.11 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the venue for such action shall be the Superior Court of the County of Orange.

Section 10.12 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties hereto except that there shall be no Transfer of any interest by any of the Parties hereto except pursuant to the terms of this Agreement. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

The covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property. However, on the termination of this Agreement, such covenants and restrictions shall expire. Each and every contract, deed, or other instrument hereafter executed covering or conveying the Property shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed, or other instrument, unless the City expressly releases the Property from the requirements of this Agreement.

Section 10.13 Parties Not Co-Venturers. Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers, or principal and agent with one another.

Section 10.14 Time of the Essence. In all matters under this Agreement, the Parties agree that time is of the essence.

Section 10.15 Action by the City. Except as may be otherwise specifically provided in this Agreement or another City Document, whenever any approval, notice, direction, finding, consent, request, waiver, or other action by the City is required or permitted under this Agreement or another City Document, such action may be given, made, or taken by the City Manager, or by any person who shall have been designated in writing to the Developer by the City, without further approval by the City Council. Any such action shall be in writing. The Developer acknowledges that nothing in this Agreement (including any approval by the City Manager in accordance with this Agreement) shall limit, waive, or otherwise impair the authority and discretion of: (i) the City's Community Development Department, in connection with the review and approval of the proposed construction plans for the Development (or any change to such plans), or any use, or proposed use, of the Property; (ii) the City's issuance of a building permit; or (iii) any other office or department of the City acting in its capacity as a governmental regulatory authority with jurisdiction over the development, use, or operation of the Development.

Section 10.16 Complete Understanding of the Parties. This Agreement and the attached exhibits (and, to the extent applicable, the City Documents) constitute the entire understanding and agreement of the Parties with respect to the matters set forth in this Agreement. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared it. The Parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party (including but not limited to Civil Code Section 1654 as may be amended from time to time) shall not apply to the interpretation of this Agreement.

Section 10.17 Operating Memoranda; Implementation Agreements. The Parties acknowledge that the provisions of this Agreement require a close degree of cooperation and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the Parties under this Agreement. The Parties desire, therefore, to retain a certain degree of flexibility with respect to the details of performance for those items covered in general terms under this Agreement. If and when, from time to time, the Parties find that refinements or adjustments are desirable, such refinements or adjustments shall be accomplished through operating memoranda or implementation agreements approved by the Parties which, after execution shall be attached to this Agreement as addenda and become a part hereof. Operating memoranda or implementation agreements may be executed on the City's behalf by the City Manager, or his or her designee. In the event a particular subject requires notice or hearing, such notice or hearing shall be appropriately given. Any significant modification to the terms of performance under this Agreement, including but not limited to amendments or modifications to the City Loan, shall be processed as an amendment of this Agreement in accordance with Section 10.18 and must be approved by the City Council in accordance with applicable law.

Section 10.18 Amendments. The Parties can amend this Agreement only by means of a writing signed by both Parties, following approval by the City Council, in accordance with applicable law.

Section 10.19 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Remainder of Page Left Intentionally Blank

IN WITNESS WHEREOF, the City and the Developer have executed this Agreement on or as of the Effective Date.

DEVELOPER:

OHDC:

ORANGE HOUSING DEVELOPMENT
CORPORATION, a California nonprofit public
benefit corporation

By: _____
Eunice Bobert
Chief Executive Officer

C&C:

C & C DEVELOPMENT CO., LLC,
a California limited liability company

By: _____
Todd R. Cottle, Trustee of the 2007 Todd R.
Cottle and Jennifer N. Cottle Revocable
Trust, its member

By: _____
Barry A. Cottle, Trustee of
The Cottle Family Trust Dated 3/8/1987,
its member

NOTE: Developer must initial Section 3.5

[Remainder of Signatures on Next Page]

CITY OF ORANGE, a California municipal corporation

By: _____
Mark A. Murphy
Mayor of the City of Orange

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Gary A. Sheatz
City Attorney

APPROVED AS TO CONTENT:

Director of Community Development

EXHIBIT A-1

LEGAL DESCRIPTION OF THE PROPERTY

**[TO BE ATTACHED AFTER PROPERTY IS FORMED
AS A SEPARATE LEGAL PARCEL]**

The land referred to herein is situated in the State of California, County of Orange, City of Orange, and is described as follows:

SITE PLAN OF THE DEVELOPMENT

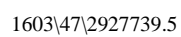


EXHIBIT B

FORM OF GRANT DEED

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

300 E. Chapman Avenue
Orange, CA 92866
Attn: City Clerk

AND ALL TAX STATEMENTS TO:
SAME AS ABOVE

(Exempt from Recording Fee per *Gov. Code*
§§ 6103, 27383 & 27388.1(a)(2)(D))

(Space Above for Recorder's Use)

DOCUMENTARY TRANSFER TAX IS
\$_____ Computed on the consideration
or value of property conveyed.

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, CITY OF ORANGE, a municipal corporation of the State of California ("**Grantor**"), hereby grants to _____ LP ("**Grantee**"), the real property located in the City of Orange, County of Orange, State of California, described on Exhibit 1 attached hereto and made a part hereof (the "**Property**"), with all improvements thereon, subject to all matters of record.

[Signatures on next page]

GRANTOR:

CITY OF ORANGE, a California municipal
corporation

By: _____
Mark A. Murphy
Mayor of the City of Orange

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Gary A. Sheatz
City Attorney

APPROVED AS TO CONTENT:

Director of Community Development

EXHIBIT 1

LEGAL DESCRIPTION OF THE PROPERTY

[to be attached]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public,
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.

Name: _____
Notary Public

EXHIBIT C

FORM OF DEVELOPMENT LOAN NOTE

DEVELOPMENT PROMISSORY NOTE SECURED BY DEED OF TRUST

Principal Amount: \$762,500

Date of Note: _____, 202__

Maker: _____ LP, a
California limited partnership

Lender: CITY OF ORANGE, a municipal
corporation of the State of California

Maturity Date: Fifty-five (55) years
from the date on which the Certificate of
Completion is issued

Interest Rate: One-Quarter Percent (0.25%)

1. Development Loan.

FOR VALUE RECEIVED, the undersigned _____ LP, a California limited partnership ("**Maker**"), with its principal place of business located at 414 East Chapman Avenue, Orange, California 92866, promises to pay to the CITY OF ORANGE, a municipal corporation of the State of California (the "**City**" or "**Holder**"), at 300 E. Chapman Avenue, Orange, California 92866, or such place as the Holder may, from time to time, designate by written notice to the Maker, the principal sum of SEVEN HUNDRED SIXTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$762,500), (the "**Development Loan**"), together with any accrued interest, if applicable, as set forth in this Note. This Promissory **Note** (the "**Note**") is made and given pursuant to that certain Affordable Housing Disposition, Development, and Loan Agreement between the City and Maker's predecessor-in-interest, dated January 12, 2021 (the "**AHDDL**A"). The AHDDL is incorporated herein by this reference. All initially capitalized terms used but not defined herein shall have the meanings given to them in the AHDDL. The Development Loan is made to finance the Development's development and construction costs in accordance with the terms and conditions of the AHDDL.

2. Term of Loan and Right of Prepayment.

a. Maturity Date. All accrued interest, if any, and principal shall be due and payable in full without any further demand or notice fifty-five (55) years from the date on which the Certificate of Completion is issued pursuant to the AHDDL ("**Maturity Date**").

b. Prepayment. This Note may be prepaid in whole or in part at any time and from time to time without penalty or premium.

3. Security for Note.

This Note is secured by a Deed of Trust executed by Maker which creates a lien on that certain real property as described therein and in the AHDDL.

4. Interest Calculation.

The principal outstanding under this Note shall accrue simple interest at the rate of one-quarter percent (0.25%) per annum, except in the case of Event of Default as set forth in Section

7 of this Note. Principal and interest shall be payable in lawful money of the United States of America. If applicable, interest shall be computed based on an actual day year and the actual number of days elapsed. Interest shall commence on amounts disbursed hereunder from the date of disbursement.

5. Annual Payment.

Following completion of the Development as evidenced by the issuance by the City of a Certificate of Completion as set forth in the AHDDL, and continuing each year thereafter until the Maturity Date, a portion of the Residual Receipts (as defined in the AHDDL) from the Development shall be paid to Holder and applied to pay down the amounts due and owing under this Note. The payments described below shall be paid to Holder no later than May 1st each year, with the first payment due on the May 1st following the issuance of a Certificate of Completion for the Development, and continuing each year thereafter.

Section 10.20Annual Payments from Residual Receipts. Maker shall make repayments of the outstanding principal and accrued interest, if any, equal to the City's Development Loan Percentage of Fifty Percent (50%) of the Residual Receipts from the Development as repayment of amounts due and owing under this Note. For the purposes of this Note, "**City's Development Loan Percentage**" means the percentage calculated by dividing (1) the original principal amount of the Development Loan actually disbursed to Borrower by (2) the sum of the original principal amount of the total amount of the Development Loan actually disbursed to Borrower plus the original principal amounts of loans made and actually disbursed by other lenders to Borrower payable from Residual Receipts.

Such annual payments shall be accompanied by the Maker's report of Residual Receipts. The Maker shall provide the Holder with the audited financial statement provided for in subsection b below, and any other documentation reasonably requested by Holder to substantiate the Maker's determination of Residual Receipts.

All payments made hereunder shall be credited first to any accrued but unpaid interest (if applicable), then to current interest due and owing and lastly to principal. Interest not paid current each year shall be added to and thereafter be considered additional principal due hereunder.

Notwithstanding the foregoing, the entire outstanding balance of principal and any interest owing under this Note shall be due and payable in full fifty-eight (58) years from the date of this Note.

Prior to any sale of all or any portion of the Development, or refinancing of all or any portion of the outstanding debt from the Development, and so long as there is any outstanding amount due and owing under this Note, Maker shall notify Holder of any such proposed or intended sale or refinancing. If such sale or refinancing is not a Permitted Transfer, Maker and Holder shall meet and confer, and shall use good faith efforts, to determine the feasibility of the payoff or restructuring of the remaining balance owing under this Note as part of any such sale or refinancing to provide for repayment of this Note sooner than the fifty-five (55) year repayment period. If such sale or

refinancing is a Permitted Transfer, no repayment or restructuring of the remaining balance owing under this Note shall be due or required.

Section 10.21 Audited Financial Statement. Maker shall annually provide Holder with an audited financial statement documenting the calculation of Residual Receipts for the previous calendar year ending December 31. The audited financial statement shall be provided on or before May 1st, together with payment of the Residual Receipts payment due to Holder. Holder shall have the right to inspect and audit Maker's books and records concerning the calculation of the Residual Receipts Payment and to object within ninety (90) days from receipt of Maker's statement. Failure to timely object shall be deemed acceptance. If Holder does object, Holder shall specify the reasons for disapproval. Maker shall have thirty (30) days to reconcile any disapproved item. If Maker and Holder cannot agree on the amount of the Residual Receipts payment, an independent auditor mutually selected by Maker and Holder shall resolve any disputed items. The cost of the auditor shall be shared equally by Maker and Holder.

6. Acceleration Upon Certain Events or Upon Event of Default.

In the event of any Event of Default under the terms of this **Note**, the AHDDLA or the Regulatory Agreement, the Deed of Trust which is the security for this Note, or under any loans, notes or deeds of trust held by a Senior Lender, at the option of the Holder and after notice to the Maker, providing Maker with thirty (30) days in which to cure any Event of Default, and such Event of Default not having been cured within thirty (30) days (or if a greater amount of time is reasonably necessary to effect a cure, if actions to cure such Event of Default are not undertaken within said thirty (30) day period and pursued with reasonable diligence thereafter), all principal and interest due under this **Note** shall immediately become due and payable, upon thirty (30) days' written notice from the Holder to the Maker. Failure to exercise such option shall not constitute a waiver of the right to exercise it in the event of any subsequent Event of Default.

Should the undersigned Maker agree to or sell, convey, transfer, or dispose of the real property described in the Deed of Trust securing this **Note** or any part thereof or interest therein, without first obtaining the prior written consent of the Holder (except for a Permitted Transfer, as defined in the AHDDLA), then, at the option of the Holder, all principal and interest due hereunder shall immediately become due and payable upon thirty (30) days' written notice from the Holder to the Maker. Consent to one transaction of this type will not constitute a waiver of the right to require consent to future or successive transactions.

Notwithstanding the generality of the foregoing, certain transfers permitted under the AHDDLA shall not constitute an Event of Default hereunder or under the AHDDLA, and any such action shall not accelerate the maturity of this **Note**, provided that any such transfer is either a Permitted Transfer as defined in the AHDDLA or is reasonably acceptable to the City with reasonable promptness, and any transferee under such a transfer agrees to be bound by any and all instruments in favor of the City.

7. Interest on Event of Default.

From and after an Event of Default, the entire outstanding principal balance of this Note shall automatically bear an annual interest rate equal to the lesser of: (a) eight percent (8%) compounding annually; or (b) the maximum interest rate allowed by law.

8. Costs Paid by Maker.

Maker agrees to pay the following costs, expenses and attorneys' fees paid or incurred by the Holder of this Note, or as adjudged by a court of competent jurisdiction: (a) reasonable costs of collection, costs and expenses and attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed; and (b) costs of suit in such sum as the court may adjudge reasonable as attorneys' fees in any action to enforce payment of this instrument.

9. Waiver.

Maker hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this instrument, and expressly agrees that, without in any way affecting the liability of Maker hereunder, the Holder hereof may extend the Maturity Date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder or release any security now or hereafter securing this Note. Maker hereby waives, to the fullest extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this instrument or any deed of trust, security agreement, guarantee or other agreement now or hereafter securing this Note.

10. Nonrecourse.

This Note is a nonrecourse obligation of Maker and the Holder must resort only to the Development or the Property, or both, for repayment should the Maker fail to repay the sums evidenced hereby. Neither Maker nor any of its general and limited partners shall have any personal liability for repayment of the Development Loan and no deficiency judgment may be obtained against Maker or any of its general and limited partners.

11. Severability.

If any provision of this Note is determined by a court of competent jurisdiction to be void or unenforceable, such determination shall not affect any other provision of this instrument, and all other provisions hereof shall remain valid and in full force and effect.

12. Non-Waiver.

No delay in demanding or failure to demand performance hereunder shall constitute a waiver by the Holder hereof of its right to subsequently demand such performance or to exercise any remedies for any Event of Default hereunder. Further, in order to be effective, any waiver of any of the Holder's rights and remedies hereunder shall be expressed in a writing signed by a duly appointed representative of the Holder hereof. Further, waiver by the Holder hereof of any right

hereunder shall not constitute a waiver of any other right, including, but not limited to, the right to exercise any and all remedies for a different or subsequent event of Event of Default hereunder.

[Signatures on Following Page]

MAKER:

_____, LP,
a California limited partnership

By: OHDC _____ LLC, a California limited liability company, its managing
general partner

By: Orange Housing Development Corporation, a California nonprofit public benefit
corporation, its sole member and manager

By: _____
Eunice Bobert
Chief Executive Officer

By: C&C _____ LLC, a California limited liability company, its developer general
partner

By: C & C Development Co., LLC, a California limited liability company, its sole
member and manager

By: _____
Todd R. Cottle, Trustee of the 2007 Todd R. Cottle
and Jennifer N. Cottle Revocable Trust, its member

By: _____
Barry A. Cottle, Trustee of The Cottle Family Trust
Dated 3/8/1987, its member

EXHIBIT D

FORM OF HOUSING ASSET FUND LOAN NOTE

HOUSING ASSET FUND PROMISSORY NOTE SECURED BY DEED OF TRUST

Principal Amount: \$1,250,000

Date of Note: _____, 202__

Maker: _____ LP, a
California limited partnership

Lender: CITY OF ORANGE, a municipal
corporation of the State of California

Maturity Date: Fifty-five (55) years
from the date on which the Certificate of
Completion is issued

Interest Rate: One-Quarter Percent (0.25%)

13. Housing Asset Fund Loan.

FOR VALUE RECEIVED, the undersigned _____ LP, a California limited partnership ("**Maker**"), with its principal place of business located at 414 East Chapman Avenue, Orange, California 92866, promises to pay to the CITY OF ORANGE, a municipal corporation of the State of California (the "**City**" or "**Holder**"), at 300 E. Chapman Avenue, Orange, California 92866, or such place as the Holder may, from time to time, designate by written notice to the Maker, the principal sum of ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$1,250,000), (the "**Housing Asset Fund Loan**"), together with any accrued interest, if applicable, as set forth in this Note. This Promissory **Note** (the "**Note**") is made and given pursuant to that certain Affordable Housing Disposition, Development, and Loan Agreement between the City and Maker's predecessor-in-interest, dated January 12, 2021 (the "**AHDDLA**"). The AHDDLA is incorporated herein by this reference. All initially capitalized terms used but not defined herein shall have the meanings given to them in the AHDDLA. The Housing Asset Fund Loan is made from the City's Housing Asset Fund to finance the Development's development and construction costs in accordance with the terms and conditions of the AHDDLA.

14. Term of Loan and Right of Prepayment.

a. Maturity Date. All accrued interest, if any, and principal shall be due and payable in full without any further demand or notice fifty-five (55) years from the date on which the Certificate of Completion is issued pursuant to the AHDDLA ("**Maturity Date**").

b. Prepayment. This Note may be prepaid in whole or in part at any time and from time to time without penalty or premium.

15. Security for Note.

This Note is secured by a Deed of Trust executed by Maker which creates a lien on that certain real property as described therein and in the AHDDLA.

16. Interest Calculation.

The principal outstanding under this Note shall accrue simple interest at the rate of one-quarter percent (0.25%) per annum, except in the case of Event of Default as set forth in Section

7 of this Note. Principal and interest shall be payable in lawful money of the United States of America. If applicable, interest shall be computed based on an actual day year and the actual number of days elapsed. Interest shall commence on amounts disbursed hereunder from the date of disbursement.

17. Annual Payment.

Following completion of the Development as evidenced by the issuance by the City of a Certificate of Completion as set forth in the AHDDL, and continuing each year thereafter until the Maturity Date, a portion of the Residual Receipts (as defined in the AHDDL) from the Development shall be paid to Holder and applied to pay down the amounts due and owing under this Note. The payments described below shall be paid to Holder no later than May 1st each year, with the first payment due on the May 1st following the issuance of a Certificate of Completion for the Development, and continuing each year thereafter.

Section 10.22Annual Payments from Residual Receipts. Maker shall make repayments of the outstanding principal and accrued interest, if any, equal to the City's Housing Asset Fund Loan Percentage of Fifty Percent (50%) of the Residual Receipts from the Development as repayment of amounts due and owing under this Note. For the purposes of this Note, "**City's Housing Asset Fund Loan Percentage**" means the percentage calculated by dividing (1) the original principal amount of the Housing Asset Fund Loan actually disbursed to Borrower by (2) the sum of the original principal amount of the total amount of the Housing Asset Fund Loan actually disbursed to Borrower plus the original principal amounts of loans made and actually disbursed by other lenders to Borrower payable from Residual Receipts.

Such annual payments shall be accompanied by the Maker's report of Residual Receipts. The Maker shall provide the Holder with the audited financial statement provided for in subsection b below, and any other documentation reasonably requested by Holder to substantiate the Maker's determination of Residual Receipts.

All payments made hereunder shall be credited first to any accrued but unpaid interest (if applicable), then to current interest due and owing and lastly to principal. Interest not paid current each year shall be added to and thereafter be considered additional principal due hereunder.

Notwithstanding the foregoing, the entire outstanding balance of principal and any interest owing under this Note shall be due and payable in full fifty-eight (58) years from the date of this Note.

Prior to any sale of all or any portion of the Development, or refinancing of all or any portion of the outstanding debt from the Development, and so long as there is any outstanding amount due and owing under this Note, Maker shall notify Holder of any such proposed or intended sale or refinancing. If such sale or refinancing is not a Permitted Transfer, Maker and Holder shall meet and confer, and shall use good faith efforts, to determine the feasibility of the payoff or restructuring of the remaining balance owing under this Note as part of any such sale or refinancing to provide for repayment of this Note sooner than the fifty-five (55) year repayment period. If such sale or

refinancing is a Permitted Transfer, no repayment or restructuring of the remaining balance owing under this Note shall be due or required.

Section 10.23 Audited Financial Statement. Maker shall annually provide Holder with an audited financial statement documenting the calculation of Residual Receipts for the previous calendar year ending December 31. The audited financial statement shall be provided on or before May 1st, together with payment of the Residual Receipts payment due to Holder. Holder shall have the right to inspect and audit Maker's books and records concerning the calculation of the Residual Receipts Payment and to object within ninety (90) days from receipt of Maker's statement. Failure to timely object shall be deemed acceptance. If Holder does object, Holder shall specify the reasons for disapproval. Maker shall have thirty (30) days to reconcile any disapproved item. If Maker and Holder cannot agree on the amount of the Residual Receipts payment, an independent auditor mutually selected by Maker and Holder shall resolve any disputed items. The cost of the auditor shall be shared equally by Maker and Holder.

18. Acceleration Upon Certain Events or Upon Event of Default.

In the event of any Event of Default under the terms of this **Note**, the AHDDLA or the Regulatory Agreement, the Deed of Trust which is the security for this Note, or under any loans, notes or deeds of trust held by a Senior Lender, at the option of the Holder and after notice to the Maker, providing Maker with thirty (30) days in which to cure any Event of Default, and such Event of Default not having been cured within thirty (30) days (or if a greater amount of time is reasonably necessary to effect a cure, if actions to cure such Event of Default are not undertaken within said thirty (30) day period and pursued with reasonable diligence thereafter), all principal and interest due under this **Note** shall immediately become due and payable, upon thirty (30) days' written notice from the Holder to the Maker. Failure to exercise such option shall not constitute a waiver of the right to exercise it in the event of any subsequent Event of Default.

Should the undersigned Maker agree to or sell, convey, transfer, or dispose of the real property described in the Deed of Trust securing this **Note** or any part thereof or interest therein, without first obtaining the prior written consent of the Holder (except for a Permitted Transfer, as defined in the AHDDLA), then, at the option of the Holder, all principal and interest due hereunder shall immediately become due and payable upon thirty (30) days' written notice from the Holder to the Maker. Consent to one transaction of this type will not constitute a waiver of the right to require consent to future or successive transactions.

Notwithstanding the generality of the foregoing, certain transfers permitted under the AHDDLA shall not constitute an Event of Default hereunder or under the AHDDLA, and any such action shall not accelerate the maturity of this **Note**, provided that any such transfer is either a Permitted Transfer as defined in the AHDDLA or is reasonably acceptable to the City with reasonable promptness, and any transferee under such a transfer agrees to be bound by any and all instruments in favor of the City.

19. Interest on Event of Default.

From and after an Event of Default, the entire outstanding principal balance of this Note shall automatically bear an annual interest rate equal to the lesser of: (a) eight percent (8%) compounding annually; or (b) the maximum interest rate allowed by law.

20. Costs Paid by Maker.

Maker agrees to pay the following costs, expenses and attorneys' fees paid or incurred by the Holder of this Note, or as adjudged by a court of competent jurisdiction: (a) reasonable costs of collection, costs and expenses and attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed; and (b) costs of suit in such sum as the court may adjudge reasonable as attorneys' fees in any action to enforce payment of this instrument.

21. Waiver.

Maker hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this instrument, and expressly agrees that, without in any way affecting the liability of Maker hereunder, the Holder hereof may extend the Maturity Date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder or release any security now or hereafter securing this Note. Maker hereby waives, to the fullest extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this instrument or any deed of trust, security agreement, guarantee or other agreement now or hereafter securing this Note.

22. Nonrecourse.

This Note is a nonrecourse obligation of Maker and the Holder must resort only to the Development or the Property, or both, for repayment should the Maker fail to repay the sums evidenced hereby. Neither Maker nor any of its general and limited partners shall have any personal liability for repayment of the Housing Asset Fund Loan and no deficiency judgment may be obtained against Maker or any of its general and limited partners.

23. Severability.

If any provision of this Note is determined by a court of competent jurisdiction to be void or unenforceable, such determination shall not affect any other provision of this instrument, and all other provisions hereof shall remain valid and in full force and effect.

24. Non-Waiver.

No delay in demanding or failure to demand performance hereunder shall constitute a waiver by the Holder hereof of its right to subsequently demand such performance or to exercise any remedies for any Event of Default hereunder. Further, in order to be effective, any waiver of any of the Holder's rights and remedies hereunder shall be expressed in a writing signed by a duly appointed representative of the Holder hereof. Further, waiver by the Holder hereof of any right

hereunder shall not constitute a waiver of any other right, including, but not limited to, the right to exercise any and all remedies for a different or subsequent event of Event of Default hereunder.

[Signatures on Following Page]

MAKER:

_____, LP,
a California limited partnership

By: OHDC _____ LLC, a California limited liability company, its managing
general partner

By: Orange Housing Development Corporation, a California nonprofit public benefit
corporation, its sole member and manager

By: _____
Eunice Bobert
Chief Executive Officer

By: C&C _____ LLC, a California limited liability company, its developer general
partner

By: C & C Development Co., LLC, a California limited liability company, its sole
member and manager

By: _____
Todd R. Cottle, Trustee of the 2007 Todd R. Cottle
and Jennifer N. Cottle Revocable Trust, its member

By: _____
Barry A. Cottle, Trustee of The Cottle Family Trust
Dated 3/8/1987, its member

EXHIBIT E

FORM OF LAND LOAN NOTE

LAND LOAN PROMISSORY NOTE SECURED BY DEED OF TRUST

Principal Amount: \$3,000,000

Date of Note: _____, 202__

Maker: _____ LP, a
California limited partnership

Lender: CITY OF ORANGE, a municipal
corporation of the State of California

Maturity Date: Fifty-five (55) years
from the date on which the Certificate of
Completion is issued

Interest Rate: One-Quarter Percent (0.25%)

25. Land Loan.

FOR VALUE RECEIVED, the undersigned _____ LP, a California limited partnership ("**Maker**"), with its principal place of business located at 414 East Chapman Avenue, Orange, California 92866, promises to pay to the CITY OF ORANGE, a municipal corporation of the State of California (the "**City**" or "**Holder**"), at 300 E. Chapman Avenue, Orange, California 92866, or such place as the Holder may, from time to time, designate by written notice to the Maker, the principal sum of THREE MILLION DOLLARS (\$3,000,000), (the "**Land Loan**"), together with any accrued interest, if applicable, as set forth in this Note. This Promissory **Note** (the "**Note**") is made and given pursuant to that certain Affordable Housing Disposition, Development, and Loan Agreement between the City and Maker's predecessor-in-interest, dated January 12, 2021 (the "**AHDDL**"). The AHDDL is incorporated herein by this reference. All initially capitalized terms used but not defined herein shall have the meanings given to them in the AHDDL. The Land Loan is made as partial payment for the conveyance of the Property by City to Maker in accordance with the terms and conditions of the AHDDL.

26. Term of Loan and Right of Prepayment.

a. Maturity Date. All accrued interest, if any, and principal shall be due and payable in full without any further demand or notice fifty-five (55) years from the date on which the Certificate of Completion is issued pursuant to the AHDDL ("**Maturity Date**").

b. Prepayment. This Note may be prepaid in whole or in part at any time and from time to time without penalty or premium.

27. Security for Note.

This Note is secured by a Deed of Trust executed by Maker which creates a lien on that certain real property as described therein and in the AHDDL.

28. Interest Calculation.

The principal outstanding under this Note shall accrue simple interest at the rate of one-quarter percent (0.25%) per annum, except in the case of Event of Default as set forth in Section

7 of this Note. Principal and interest shall be payable in lawful money of the United States of America. If applicable, interest shall be computed based on an actual day year and the actual number of days elapsed. Interest shall commence on amounts disbursed hereunder from the date of disbursement.

29. Annual Payment.

Following completion of the Development as evidenced by the issuance by the City of a Certificate of Completion as set forth in the AHDDL, and continuing each year thereafter until the Maturity Date, a portion of the Residual Receipts (as defined in the AHDDL) from the Development shall be paid to Holder and applied to pay down the amounts due and owing under this Note. The payments described below shall be paid to Holder no later than May 1st each year, with the first payment due on the May 1st following the issuance of a Certificate of Completion for the Development, and continuing each year thereafter.

Section 10.24Annual Payments from Residual Receipts. Maker shall make repayments of the outstanding principal and accrued interest, if any, equal to the City's Land Loan Percentage of Fifty Percent (50%) of the Residual Receipts from the Development as repayment of amounts due and owing under this Note. For the purposes of this Note, "**City's Land Loan Percentage**" means the percentage calculated by dividing (1) the original principal amount of the Land Loan actually disbursed to Borrower by (2) the sum of the original principal amount of the total amount of the Land Loan actually disbursed to Borrower plus the original principal amounts of loans made and actually disbursed by other lenders to Borrower payable from Residual Receipts.

Such annual payments shall be accompanied by the Maker's report of Residual Receipts. The Maker shall provide the Holder with the audited financial statement provided for in subsection b below, and any other documentation reasonably requested by Holder to substantiate the Maker's determination of Residual Receipts.

All payments made hereunder shall be credited first to any accrued but unpaid interest (if applicable), then to current interest due and owing and lastly to principal. Interest not paid current each year shall be added to and thereafter be considered additional principal due hereunder.

Notwithstanding the foregoing, the entire outstanding balance of principal and any interest owing under this Note shall be due and payable in full fifty-eight (58) years from the date of this Note.

Prior to any sale of all or any portion of the Development, or refinancing of all or any portion of the outstanding debt from the Development, and so long as there is any outstanding amount due and owing under this Note, Maker shall notify Holder of any such proposed or intended sale or refinancing. If such sale or refinancing is not a Permitted Transfer, Maker and Holder shall meet and confer, and shall use good faith efforts, to determine the feasibility of the payoff or restructuring of the remaining balance owing under this Note as part of any such sale or refinancing to provide for repayment of this Note sooner than the fifty-five (55) year repayment period. If such sale or refinancing is a Permitted Transfer, no repayment or restructuring of the remaining balance owing under this Note shall be due or required.

Section 10.25 Audited Financial Statement. Maker shall annually provide Holder with an audited financial statement documenting the calculation of Residual Receipts for the previous calendar year ending December 31. The audited financial statement shall be provided on or before May 1st, together with payment of the Residual Receipts payment due to Holder. Holder shall have the right to inspect and audit Maker's books and records concerning the calculation of the Residual Receipts Payment and to object within ninety (90) days from receipt of Maker's statement. Failure to timely object shall be deemed acceptance. If Holder does object, Holder shall specify the reasons for disapproval. Maker shall have thirty (30) days to reconcile any disapproved item. If Maker and Holder cannot agree on the amount of the Residual Receipts payment, an independent auditor mutually selected by Maker and Holder shall resolve any disputed items. The cost of the auditor shall be shared equally by Maker and Holder.

30. Acceleration Upon Certain Events or Upon Event of Default.

In the event of any Event of Default under the terms of this **Note**, the AHDDL A or the Regulatory Agreement, the Deed of Trust which is the security for this Note, or under any loans, notes or deeds of trust held by a Senior Lender, at the option of the Holder and after notice to the Maker, providing Maker with thirty (30) days in which to cure any Event of Default, and such Event of Default not having been cured within thirty (30) days (or if a greater amount of time is reasonably necessary to effect a cure, if actions to cure such Event of Default are not undertaken within said thirty (30) day period and pursued with reasonable diligence thereafter), all principal and interest due under this **Note** shall immediately become due and payable, upon thirty (30) days' written notice from the Holder to the Maker. Failure to exercise such option shall not constitute a waiver of the right to exercise it in the event of any subsequent Event of Default.

Should the undersigned Maker agree to or sell, convey, transfer, or dispose of the real property described in the Deed of Trust securing this **Note** or any part thereof or interest therein, without first obtaining the prior written consent of the Holder (except for a Permitted Transfer, as defined in the AHDDL A), then, at the option of the Holder, all principal and interest due hereunder shall immediately become due and payable upon thirty (30) days' written notice from the Holder to the Maker. Consent to one transaction of this type will not constitute a waiver of the right to require consent to future or successive transactions.

Notwithstanding the generality of the foregoing, certain transfers permitted under the AHDDL A shall not constitute an Event of Default hereunder or under the AHDDL A, and any such action shall not accelerate the maturity of this **Note**, provided that any such transfer is either a Permitted Transfer as defined in the AHDDL A or is reasonably acceptable to the City with reasonable promptness, and any transferee under such a transfer agrees to be bound by any and all instruments in favor of the City.

31. Interest on Event of Default.

From and after an Event of Default, the entire outstanding principal balance of this Note shall automatically bear an annual interest rate equal to the lesser of: (a) eight percent (8%) compounding annually; or (b) the maximum interest rate allowed by law.

32. Costs Paid by Maker.

Maker agrees to pay the following costs, expenses and attorneys' fees paid or incurred by the Holder of this Note, or as adjudged by a court of competent jurisdiction: (a) reasonable costs of collection, costs and expenses and attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed; and (b) costs of suit in such sum as the court may adjudge reasonable as attorneys' fees in any action to enforce payment of this instrument.

33. Waiver.

Maker hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this instrument, and expressly agrees that, without in any way affecting the liability of Maker hereunder, the Holder hereof may extend the Maturity Date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder or release any security now or hereafter securing this Note. Maker hereby waives, to the fullest extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this instrument or any deed of trust, security agreement, guarantee or other agreement now or hereafter securing this Note.

34. Nonrecourse.

This Note is a nonrecourse obligation of Maker and the Holder must resort only to the Development or the Property, or both, for repayment should the Maker fail to repay the sums evidenced hereby. Neither Maker nor any of its general and limited partners shall have any personal liability for repayment of the Land Loan and no deficiency judgment may be obtained against Maker or any of its general and limited partners.

35. Severability.

If any provision of this Note is determined by a court of competent jurisdiction to be void or unenforceable, such determination shall not affect any other provision of this instrument, and all other provisions hereof shall remain valid and in full force and effect.

36. Non-Waiver.

No delay in demanding or failure to demand performance hereunder shall constitute a waiver by the Holder hereof of its right to subsequently demand such performance or to exercise any remedies for any Event of Default hereunder. Further, in order to be effective, any waiver of any of the Holder's rights and remedies hereunder shall be expressed in a writing signed by a duly appointed representative of the Holder hereof. Further, waiver by the Holder hereof of any right hereunder shall not constitute a waiver of any other right, including, but not limited to, the right to exercise any and all remedies for a different or subsequent event of Event of Default hereunder.

MAKER:

_____, LP,
a California limited partnership

By: OHDC _____ LLC, a California limited liability company, its managing general partner

By: Orange Housing Development Corporation, a California nonprofit public benefit corporation, its sole member and manager

By: _____
Eunice Bobert
Chief Executive Officer

By: C&C _____ LLC, a California limited liability company, its developer general partner

By: C & C Development Co., LLC, a California limited liability company, its sole member and manager

By: _____
Todd R. Cottle, Trustee of the 2007 Todd R. Cottle
and Jennifer N. Cottle Revocable Trust, its member

By: _____
Barry A. Cottle, Trustee of The Cottle Family Trust Dated 3/8/198

EXHIBIT F

FORM OF DEED OF TRUST

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

THE CITY OF ORANGE
300 E. Chapman Avenue
Orange, CA 92866
Attn: City Clerk

(Exempt from Recording Fee per *Gov. Code*
§§ 6103, 27383 & 27388.1(a)(2)(D))

APN:

(Space Above This Line for Recorder's Office Use Only)

DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING
(WITH ASSIGNMENT OF RENTS)

This Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) ("**Deed of Trust**") is dated as of _____, 202_, by _____ LP, a California limited partnership, whose address is 414 E. Chapman Avenue, Orange, CA 92866 ("**Trustor**"), to TICOR TITLE COMPANY OF CALIFORNIA, a California corporation ("**Trustee**"), for the benefit of the CITY OF ORANGE, a municipal corporation of the State of California, whose address is 300 E. Chapman Avenue, Orange, CA 92866 ("**Beneficiary**"), and is executed to secure the Land Loan Promissory Note, Housing Asset Fund Promissory Note, and Development Promissory Note, each of even date herewith, in the principal amounts of Three Million Dollars (\$3,000,000), One Million Two Hundred Fifty Thousand Dollars (\$1,250,000), and Seven Hundred Sixty-Two Thousand Five Hundred Dollars (\$762,500), respectively, executed by Trustor in favor of Beneficiary (such Promissory Notes, as it may from time to time be supplemented, amended, extended, renewed or otherwise modified), the provisions of which are incorporated in the Deed of Trust by this reference.

This Deed of Trust is made with respect to that certain Affordable Housing Disposition, Development, and Loan Agreement, dated as of January 12, 2021, for reference purposes only, between the Trustor's predecessor-in-interest and the Beneficiary (the "**AHDDLA**").

Trustor hereby IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION, the following property ("**Trust Estate**"):

(a) All of that certain real property in the City of Orange, County of Orange, State of California, more particularly described in Exhibit 1 attached hereto and by this reference made a part hereof ("**Subject Property**");

(b) All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property ("**Improvements**");

(c) All tenements, hereditament, appurtenances, privileges, franchises and other rights and interests now or in the future benefitting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights ("**Appurtenances**"). (Appurtenances, together with the Subject Property and the Improvements, are hereafter collectively referred to as the "**Real Property**");

(d) Subject to the assignment to Beneficiary set forth in Paragraph 4 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management operation, leasing or occupancy of the Trust Estate, including those past due and unpaid ("**Rents**");

(e) All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code ("**UCC**"), whether existing now or in the future) located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating, ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property ("**Goods**," and together with the Real Property, collectively the "**Property**"); and

(f) All present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the Property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations; (ii) improvement plans and specifications and architectural drawings; (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers; (iv) takeout, refinancing and permanent loan commitments; (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums; (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property; (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements; (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money,

trade names, trademarks, goodwill and all other types of intangible personal property of any kind or nature; and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (collectively, "**Intangibles**").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estates described above in which a security interest may be created under the UCC (collectively, the "**Personal Property**"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Sections 9313 and 9402(6) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following: (a) payment of that certain Land Loan Promissory Note dated as of the date of this Deed of Trust in the original principal amount of Three Million Dollars (\$3,000,000), (the "**Land Loan Note**"); (b) payment of that certain Housing Asset Fund Loan Promissory Note dated as of the date of this Deed of Trust in the original principal amount of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) (the "**Housing Asset Fund Loan Note**"); (c) payment of that certain Development Loan Promissory Note as of the date of this Deed of Trust in the original principal amount of Seven Hundred Sixty-Two Thousand Five Hundred Dollars (\$762,500) (the "**Development Loan Note**", and together with the Land Note and the Housing Asset Fund Loan Note referred to herein as the "**Notes**"); and (d) due, prompt and complete observance, performance and discharge of each and every monetary and non-monetary condition, obligation, covenant and agreement contained herein or contained in the AHDDLA. The AHDDLA, that certain Regulatory Agreement and Declaration of Covenants and Restrictions dated as of the date of this Deed of Trust, between the Trustor and the Beneficiary ("**Regulatory Agreement**") and the Notes (collectively, "**Secured Obligations**") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof, however evidenced.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That Trustor shall perform its obligations as set forth in the Secured Obligations at the time and in the manner respectively provided therein.

2. That Trustor shall not permit or suffer the use of any of the Property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.

3. That the Secured Obligations are incorporated in and made a part of this Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable. This Deed of Trust shall cover, and the property subject hereto shall include, all property now or hereafter affixed or attached to or incorporated upon the Subject Property in, to or under which Trustor now has or hereafter acquires any right, title or

interest, which, to the fullest extent permitted by law, shall be deemed fixtures and a part of the Subject Property. To the extent any of the property subject to this Deed of Trust consists of rights in action or personal property covered by the UCC, this Deed of Trust shall also constitute a security agreement, and Trustor hereby grants to Beneficiary, as secured party, a security interest in such property, including all proceeds thereof, for the purpose of securing the Secured Obligations. In addition, for the purpose of securing the Secured Obligations, Trustor hereby grants to Beneficiary, as secured party, a security interest in all of the property described herein in, to, or under which Trustor now has or hereafter acquires any right, title or interest, whether present, future or contingent, including, but not limited to, all equipment, inventory, accounts, general intangibles, instruments, documents and chattel paper, as those terms are defined in the UCC, and all other personal property of any kind (including, without limitation, money and rights to the payment of money), whether now existing or hereafter created, that are now or at any time hereafter (i) in the possession or control of Beneficiary in any capacity; (ii) erected upon, attached to or appurtenant to the Subject Property; (iii) located or used on the Subject Property or identified for use on the Subject Property (whether stored on the Subject Property or elsewhere); or (iv) used in connection with, arising from, related to, or associated with the Subject Property or any of the personal property described herein, the construction of any improvements on the Subject Property, the ownership, development, maintenance, management or operation of the Subject Property, the use or enjoyment of the Subject Property or the operation of any business conducted thereon, including, without limitation, all such property described as the Trust Estate hereinabove. The security interests granted in this Paragraph 3 are hereinafter severally and collectively called the "Security Interest". The Security Interest shall be self-operative with respect to the real property described herein but Trustor shall execute and deliver on demand such additional security agreements, financing statements and other instruments as may be requested in order to impose the Security Interest more specifically upon the real and personal property encumbered hereby. The Security Interest, at all times, shall be prior to any other interest in the personal property encumbered hereby. Trustor shall act and perform as necessary and shall execute and file all security agreements, financing statements, continuation statements and other documents requested by Beneficiary to establish, maintain and continue the perfected Security Interest. Trustor, on demand, shall promptly pay all costs and expenses of filing and recordation, to ensure the continued priority of the Security Interest. Trustor shall not sell, transfer, assign or otherwise dispose of any personal property encumbered hereby without obtaining the prior written consent of Beneficiary, except that the Trustor may, in the ordinary course of business, replace personal property or dispose of personal property that will not be replaced because of its obsolescence. Unless Beneficiary then agrees otherwise in writing, all proceeds from any permitted sale or disposition in excess of that required for full replacement shall be paid to Beneficiary to be applied on the Notes subject to the rights of any senior lenders. Although proceeds of personal property are covered hereby, this shall not be construed to mean that Beneficiary consents to any sale of such personal property. Upon its recordation in the real property records of Orange County, this Deed of Trust shall be effective as a financing statement filed as a fixture filing. In addition, a carbon, photostatic or other reproduced copy of this Deed of Trust and/or any financing statement relating hereto shall be sufficient for filing and/or recording as a financing statement.

4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of

notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the Secured Obligations.

5. That upon default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom.

6. That Trustor will keep the improvements now existing or hereafter erected on the property insured against loss by fire and such other hazards, casualties, and contingencies as may be required by applicable provisions of the Secured Obligations, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies. Such policies shall be endorsed with standard mortgage clause with loss payable to the Beneficiary and certificates thereof together with copies of original policies, if requested, shall be deposited with the Beneficiary,

7. To pay before delinquency any taxes and assessments affecting said Property; to pay, when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof which appear to be prior or superior hereto; and to pay all costs, fees, and expenses of this trust. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be required to pay and discharge any such tax, assessment charge or levy so long as Trustor is contesting the legality thereof in good faith and by appropriate proceedings, and Trustor has adequate funds to pay any liabilities contested pursuant to this Paragraph 7.

8. As it is provided more specifically in the Secured Obligations, to keep said property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations); not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law and/or covenants, conditions and/or restrictions affecting said property; not to permit or suffer any material alteration of or addition to the buildings or improvements hereafter constructed in or upon said property without the consent of the Beneficiary.

9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Following default, after the giving of

notice and the expiration of any applicable cure period, Beneficiary or Trustee, being authorized to enter upon said property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, may pay necessary expenses, employ counsel, and pay reasonable attorneys' fees.

11. Beneficiary shall have the right to pay all insurance premiums required by the Secured Obligations when due should Trustor fail to make any required premium payments. All such payments made by the Beneficiary shall be added to the sums secured hereby.

12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure, at the highest rate of interest permitted by law.

13. That the funds to be advanced hereunder are to be used in accordance with applicable provisions of the Secured Obligations; upon the failure of Trustor to do so, after the giving of notice and the expiration of any applicable cure period, Trustor shall be in default hereunder.

14. Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the property subject to this Deed of Trust any lien or liens except as authorized by Beneficiary and/or as provided in the Secured Obligations and further that it will keep and maintain the property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that Trustor shall, at Beneficiary's written request, within thirty (30) days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request prior to foreclosure) record in the Office of the Recorder of Orange County, a surety bond in the amount required by law to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.

15. That any and all improvements made or about to be made upon the premises covered by this Deed of Trust and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

IT IS MUTUALLY AGREED THAT:

16. Trustor confirms that if Trustor should sell, enter into a contract of sale, convey, or in any way transfer all or any interest of Trustor in the Real Property encumbered by this Deed of Trust or suffer Trustor's title or any interest therein to be divested, whether voluntarily or involuntarily, unless the same is a Permitted Transfer as defined in the AHDDL, without the prior written consent of the Beneficiary being obtained, then Beneficiary shall have the right, at

Beneficiary's sole option, to declare all sums payable under the Notes secured hereby immediately due and payable in full, irrespective of the maturity date otherwise specified in the Notes. No waiver of this right shall be effective unless in writing and signed by the Beneficiary. Consent by the Beneficiary to any one such transaction shall not be deemed a waiver of the right to require such consent to future or successive transactions. Further, upon default under one of the Secured Obligations, and after the giving of notice and the expiration of any applicable cure period provided therein, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be immediately due and payable in full, irrespective of the maturity date otherwise specified in the Notes.

17. As provided more specifically in the Secured Obligations, should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, subject to the rights of any senior lenders, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage subject to the rights of any senior lenders. All such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary subject to the rights of any senior lenders.

18. Notwithstanding Sections 16 and 17, in the event that a portion of the Property is taken for a public improvement or pursuant to a condemnation proceeding and the Restricted Units (as defined in the Regulatory Agreement) remain intact and continue to be owned and operated by Trustor in conformance with the AHDDLA and the Regulatory Agreement, Beneficiary shall not declare all sums due and payable under the Notes, nor shall the Beneficiary be entitled to any compensation, awards and other payments therefor, provided that such compensation, awards and other payments are used for (1) paying principal and interest owed on any loan held by a Senior Lender (as defined in the AHDDLA), (2) making improvements to the Property that are approved by Beneficiary, in its reasonable discretion, or (3) payment of principal owing under the Notes. In the event that Trustor receives such compensation, awards or other payments and fails to expend the funds in conformance with subsections (1) and (2) of this section within thirty (30) days of receipt of such funds, Trustor shall be in default under this Deed of Trust.

19. Upon default by Trustor in taking any action or in making any payments provided for herein, or in the Secured Obligations, if Trustor shall fail to perform any covenant or agreement in this Deed of Trust within thirty (30) days after written demand therefor by Beneficiary (or, in the event that more than thirty (30) days is reasonably required to cure such default, should Trustor fail to promptly commence such cure, and diligently prosecute same to completion), after the giving of notice and the expiration of any applicable cure period, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust and all documents evidencing expenditures secured hereby.

20. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its Deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of (1) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorneys' fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (2) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the maximum rate allowed by law; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.

21. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Deed of Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

22. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

23. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters of fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

24. The trust created hereby is irrevocable by Trustor.

25. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future successor in interest to Beneficiary. In this Deed of Trust, whenever the context so requires, the

masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

26. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law, the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

27. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to it at the address set forth in the Deed of Trust.

28. Trustor agrees at any time and from time to time, upon receipt of a written request from Beneficiary, to furnish to Beneficiary detailed statements in writing of income, rents, profits, and operating expenses of the premises, and the names of the occupants and tenants in possession, together with the expiration dates of their leases and full information regarding all rental and occupancy agreements, and the rents provided for by such leases and rental and occupancy agreements, and such other information regarding the premises and their use as may be requested by Beneficiary.

29. Trustor agrees that the obligations secured by this Deed of Trust are made expressly for the purpose of acquiring the Property, completing the construction work necessary to construct a new 62-unit affordable housing development on the Property, as is more specifically provided in the Secured Obligations.

30. As is provided more specifically in the Secured Obligations, the obligations of Trustor thereunder are nonrecourse obligations of the Trustor. The sole recourse of Beneficiary shall be the exercise of its rights against the Property.

31. Notwithstanding specific provisions of this Deed of Trust, non-monetary performance hereunder shall not be deemed to be in default where delays or defaults are due to: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor or supplier; acts of the other party; acts or failure to act of the Beneficiary or any other public or governmental agency or entity (except that any act or failure to act of Beneficiary shall not excuse performance by Beneficiary unless such act or failure to act is allowed or required by law); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause (a "**Force Majeure Delay**") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Deed of Trust may also be extended in writing by the Beneficiary and Trustor.

32. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.

33. (a) Subject to the extensions of time set forth in Paragraph 31, and subject to the further provisions of this Paragraph 33, failure or delay by Trustor to perform any term or provision required to be performed under the Secured Obligations or this Deed of Trust constitutes a default under this Deed of Trust.

(b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by the Beneficiary. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If an event of default occurs under the terms of this Deed of Trust, prior to exercising any remedies hereunder, Beneficiary shall give Trustor written notice of such default. Trustor shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Beneficiary under this Deed of Trust. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within thirty (30) days after the notice of default is first given.

(e) If an event of default occurs under the terms of the Secured Obligations, prior to exercising any remedies hereunder or thereunder, Beneficiary shall give Trustor notice of such default. As is provided more specifically in the Secured Obligations, if the default is reasonably capable of being cured within thirty (30) days, Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary under the Secured Obligations or this Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Trustor (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default.

34. This Deed of Trust shall be subject and subordinate to the terms of that certain extended use agreement executed by the Trustor in connection with the Trustor's allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code (the "**Extended Use Agreement**"). If Beneficiary or its successors or assigns (collectively, the "**Subsequent Owner**") acquires the Property by foreclosure (or instrument in lieu of foreclosure), then the "extended use

period" (as defined in Section 42(h)(6)(D) of the Internal Revenue Code) shall terminate, except for the obligation of the Subsequent Owner to comply with the limitations on evictions, termination of tenancy and increase in rents for the three year period following the Subsequent Owner's acquisition of the Property, as set forth in Section 42(h)(6)(E)(ii) of the Internal Revenue Code. As provided in the AHDDLA, upon request when appropriate, Beneficiary shall execute such documentation as is necessary to subordinate this Deed of Trust to a Senior Loan.

[Signatures on Following Page]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first set forth above.

TRUSTOR:

_____, LP,
a California limited partnership

By: OHDC _____ LLC, a California limited liability company, its managing
general partner

By: Orange Housing Development Corporation, a California nonprofit public benefit
corporation, its sole member and manager

By: _____
Eunice Bobert
Chief Executive Officer

By: C&C _____ LLC, a California limited liability company, its developer general
partner

By: C & C Development Co., LLC, a California limited liability company, its sole
member and manager

By: _____

Todd R. Cottle, Trustee of the 2007 Todd R. Cottle
and Jennifer N. Cottle Revocable Trust, its member

By: _____
Barry A. Cottle, Trustee of The Cottle Family Trust
Dated 3/8/1987, its member

[SIGNATURES MUST BE NOTARY ACKNOWLEDGED]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, 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.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, 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.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, 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.

Name: _____
Notary Public

EXHIBIT 1

LEGAL DESCRIPTION OF SUBJECT PROPERTY

[to be attached]

EXHIBIT G

SCHEDULE OF PERFORMANCE

SCHEDULE OF PERFORMANCE

The following Schedule of Performance provides for the Development to be complete within twenty-four (24) months from the Closing of Escrow, assuming the Development receives a Tax-Exempt Bond Allocation from CDLAC and a Tax Credit Reservation in April of 2021, as set forth below. If the Close of Escrow is delayed because the Development does not receive a Tax-Exempt Bond Allocation from CDLAC and a Tax Credit Reservation by July of 2021 through application rounds, as contemplated in Section 2.3 of this Agreement, the construction-related deadlines in the Schedule of Performance below shall be extended for a period of time equal to the delay between February 28, 2022, and actual date for Closing of Escrow, such that the "Construction Commencement" deadline shall be thirty (30) days after the Close of Escrow, the "Construction Completion" date shall be twenty-four months after the Construction Commencement deadline, and a "Certificate of Occupancy" and a "Certificate of Completion" shall be issued within thirty (30) days of the Construction Completion deadline. In no event shall the Closing Date occur later than July 31, 2023, and the Construction Completion date be later than July 31, 2025, unless otherwise agreed to in writing by the City.

January 12, 2021	Entitlements Approved
No later than April 30, 2021 / July 31, 2021*	CDLAC Application / Approval
No later than April 30, 2021 / July 31, 2021*	TCAC Application / Approval
No later than September 30, 2021 /December 31, 2021*	County Homeless Prevention Program Financing Application / Approval
No later than September 30, 2021 /December 31, 2021*	Project-Based Vouchers Application / Approval
February 28, 2022	Financing / Closing of Escrow on Property [195 days after Tax-Exempt Bond Allocation/Tax Credit Reservation]
March 31, 2022	Construction Commences
March 31, 2024	Construction Completed
April 30, 2024	Certificate of Occupancy and Certificate of Completion Issued

* Funding cycles for 2021 have not yet been announced so Schedule is subject to revisions once those dates are announced.

EXHIBIT H

FORM OF REGULATORY AGREEMENT

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

THE CITY OF ORANGE
300 E. Chapman Avenue
Orange, CA 92866
Attn: City Clerk

(Exempt from Recording Fee per *Gov. Code*
§§ 6103, 27383 & 27388.1(a)(2)(D))

APN:

(Space Above This Line for Recorder's Office Use Only)

**REGULATORY AGREEMENT AND
DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS REGULATORY AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS ("**Agreement**") is made and entered into this ____ day of ____, 202__, by and between THE CITY OF ORANGE, a municipal corporation of the State of California ("**City**") and _____ LP, a California limited partnership ("**Owner**").

RECITALS:

- A. These Recitals use defined terms as set forth in the definitions in Section 1.1 of this Agreement.
- B. The Owner is constructing the Development.
- C. The City and the Owner's predecessors-in-interest have entered into the AHDDL in which the City agreed to convey the Property to Owner and to loan the Owner funds for development costs for the Development.
- D. In consideration of the loan funds provided by the City to the Owner, Owner has agreed to maintain 8 of the Development's Units as affordable to Extremely Low Income Households, 12 of the Development's Units as affordable to Very Low Income Households, 7 of the Development's Units as affordable to 70% Income Households, and 34 of the Units as affordable to Low Income Households for the Term of this Regulatory Agreement and to further agree to observe all the terms and conditions set forth below.
- E. To ensure that the Development will be used and operated in accordance with these conditions and restrictions, the City and the Owner wish to enter into this Regulatory Agreement.

Exhibit H

THEREFORE, the City and the Owner hereby agree as follows:

ARTICLE 1.
DEFINITIONS

1.1 Definitions. When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

(a) **"70% Income Household"** shall mean a household with an Adjusted Income that does not exceed 70% of Area Median Income, as published annually by TCAC.

(b) **"70% Income Rent"** shall mean the maximum allowable rent for a 70% Income Unit pursuant to Section 2.2(c) below.

(c) **"70% Income Unit"** shall mean the Units which, pursuant to Section 2.1 below, are required to be occupied by 70% Income Households.

(d) **"Adjusted Income"** shall mean the total anticipated annual income of all persons in a household, adjusted in accordance with TCAC regulations and rules.

(e) **"Agreement"** shall mean this Regulatory Agreement and Declaration of Restrictive Covenants.

(f) **"AHDDLA"** shall mean the Affordable Housing Disposition, Development, and Loan Agreement entered into by and between the City and the Owner's predecessors-in-interest and dated as of January 12, 2021.

(g) **"Area Median Income"** shall mean the Area Median Family Income for the Santa Ana-Anaheim-Irvine, CA HUD Metro FMR Area, as published annually by HUD.

(h) **"Assumed Household Size"** shall have the meaning required in connection with federal low income housing tax credits.

(i) **"City"** shall mean the City of Orange, California.

(j) **"Closing Date"** shall mean the date of recordation of this Agreement.

(k) **"Development"** shall mean the affordable rental housing complex to be located at 637 West Struck Avenue, Orange, California, and consisting of 62 residential dwelling units, as well as all recreational and common area improvements, landscaping, parking and related improvements, as the same may from time to time exist on the Property.

(l) **"Extremely Low Income"** shall mean annual income equal to or less than thirty percent (30%) of then current Area Median Income adjusted for household size, as published by TCAC annually.

Exhibit H

(m) **"Extremely Low Income Household"** shall mean a household with an Adjusted Income that does not exceed Extremely Low Income.

(n) **"Extremely Low Income Rent"** shall mean the maximum allowable Rent for an Extremely Low Income Unit pursuant to Section 2.2(a) below.

(o) **"Extremely Low Income Units"** shall mean the Units in the Development to be made available and occupied by Extremely Low Income Households pursuant to Section 2.1 of this Agreement.

(p) **"Fiscal Year"** shall mean the Owner's fiscal year which ends on December 31.

(q) **"HUD"** shall mean the United States Department of Housing and Urban Development.

(r) **"Investor Limited Partner"** shall mean any investor limited partner of the Owner, and its successors or assigns, if Owner has any limited partners at the applicable time.

(s) **"Low Income"** shall mean annual income equal to or less than eighty percent (80%) of then current Area Median Income adjusted for household size, as published by TCAC annually.

(t) **"Low Income Household"** shall mean a household with an Adjusted Income that does not exceed Low Income.

(u) **"Low Income Rent"** shall mean the maximum allowable rent for a Low Income Unit pursuant to Section 2.2(d) below.

(v) **"Low Income Unit"** shall mean the Units which, pursuant to Section 2.1 below, are required to be occupied by Low Income Households.

(w) **"Management Agent"** shall mean the experienced management agent selected by the Owner for the management of the Development pursuant to Section 5.2 of this Agreement.

(x) **"Owner"** shall mean _____, a California limited partnership, and any of its partners, successors, or assigns.

(y) **"Property"** shall mean the real property described in Exhibit A attached hereto and incorporated herein.

(z) **"Rent"** shall mean the total monthly payment by the tenant of a Restricted Unit for the following: use and occupancy of the Restricted Unit, land and associated facilities, including parking (other than parking services acquired by the tenant on an optional basis); any separately charged fees assessed by the Owner which are required of all tenants, other than security

Exhibit H

deposits; the cost of an adequate level of service for utilities paid by the tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service; any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Owner, and paid by the tenant.

(aa) **"Restricted Units"** shall mean the Extremely Low Income Units, the Very Low Income Units, the 70% Income Units and the Low Income Units.

(bb) **"TCAC"** shall mean the California Tax Credit Allocation Committee or successor agency.

(cc) **"Term"** shall mean the period of time beginning on the Closing Date and ending on the later of the date fifty-five (55) years after the date of recordation of this Agreement or December 31, 2076.

(dd) **"Very Low Income"** shall mean annual income equal to or less than fifty percent (50%) of then current Area Median Income adjusted for household size, as published by TCAC annually.

(ee) **"Very Low Income Household"** shall mean a household with an Adjusted Income that does not exceed Very Low Income.

(ff) **"Very Low Income Rent"** shall mean the maximum allowable rent for a Very Low Income Unit pursuant to Section 2.2(b) below.

(gg) **"Very Low Income Unit"** shall mean the Units which, pursuant to Section 2.1 below, are required to be occupied by Very Low Income Households.

(hh) **"Units"** shall mean the residential rental units to be developed by the Owner on the Property.

ARTICLE 2. AFFORDABILITY COVENANTS

2.1 Occupancy Requirement. Sixty-one (61) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by households as follows:

Exhibit H

	Extremely Low Income	Very Low Income	70% Income	Low Income	Total
2 BR Units	3	12	3	0	17
3 BR Units	5	0	4	34	44
Total	8	12	7	34	61

2.2 Allowable Rent.

(a) Subject to Section 2.3 below, the Rent charged to tenants of the Extremely Low Income Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of Extremely Low Income, adjusted for Assumed Household Size, as published by TCAC annually.

(b) Subject to Section 2.3 below, the Rent charged to tenants of the Very Low Income Units shall not exceed one-twelfth (1/12) of fifty percent (50%) of Very Low Income, adjusted for Assumed Household Size, as published by TCAC annually.

(c) Subject to Section 2.3 below, the Rent charged to tenants of the 70% Income Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of seventy percent (70%) of Area Median Income, adjusted for Assumed Household Size, as published by TCAC annually.

(d) Subject to Section 2.3 below, the Rent charged to tenants of the Low Income Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of Area Median Income, adjusted for Assumed Household Size, as published by TCAC annually.

(e) Households occupying Restricted Units shall be given at least thirty (30) days' written notice prior to any increase in the Rent. The Rent may only be increased one time per year (unless otherwise approved in writing by the City) and the Rent level following an increase, or upon a new occupancy, shall not exceed the Rent level set forth in subsections (a), (b), (c) and (d) above, as applicable.

(f) The Development will receive Project Based Section 8 vouchers or other rental subsidies (the "**Rental Subsidies**") throughout the Term. If, during the Term, any change in federal law occurs or any action (or inaction) by Congress or any federal or State agency occurs, which results in a reduction, termination or nonrenewal of the Rental Subsidies, such that the rental subsidy projected in the budget for the Development is reduced or no longer available, the Owner may request to increase the rents on one or more of the Extremely Low Income Units during the remainder of the Term to the allowable rent for Very Low Income, 70% Income, or Low Income Units as set forth in subsections (b), (c) and (d) above, and if Owner demonstrates to the satisfaction of the City that such rental increase is necessary to maintain the financial stability of the Development and no alternative rental subsidies are available, the City shall agree to such rental increase.

Exhibit H

2.3 Increased Income of Tenant Households. The provisions of the federal low-income housing tax credit requirements and TCAC requirements shall govern the continued occupancy by households whose incomes exceed the eligible income limitations.

2.4 Lease Provisions. The Owner shall include in leases or rental agreements for all of the Restricted Units provisions which authorize the Owner to immediately terminate the tenancy of any household if one or more of its members misrepresents any fact material to that household's qualification to occupy a Restricted Unit. Each lease or rental agreement of a Restricted Unit shall also provide that the household is subject to annual certification in accordance with Section 4.1 below, and that, if the household's income increases above the applicable limits for household income which initially qualified that household for the Restricted Unit, such household's Rent will be subject to an increase and the lease may be subject to termination under the TCAC rules.

ARTICLE 3. OPERATION AND MAINTENANCE OF THE DEVELOPMENT

3.1 Use as Rental Housing. The Owner shall operate the Development only as rental housing. No part of the Development shall be operated as transitional housing.

3.2 Compliance with Loan Documents. The Owner shall comply with all the terms and provisions of any document relating to any loan for the Development.

3.3 Condominium Conversion. The Owner shall not convert Units in the Development to condominium or cooperative ownership or sell condominium or cooperative conversion rights in the Development or the Property during the Term of this Agreement.

3.4 Taxes and Assessments. The Owner shall pay any real and personal property taxes, assessments, and charges and all franchise, income, employment, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that the Owner shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event the Owner exercises its right to contest any tax, assessment, or charge against it, the Owner, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges, and interest.

3.5 Nondiscrimination. All of the Units shall be available for occupancy on a continuous basis to members of the general public, subject to income eligibility criteria. Except as permitted or required by Owner's lenders and only in accordance with all applicable laws, the Owner shall not give preference to any particular class or group of persons in renting the Units. There shall be no discrimination against or segregation of a person or of a group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, nor shall the Owner or any person claiming under or through the Owner establish or permit any such practice

Exhibit H

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 Property. With respect to familial status, the third sentence of this Section 3.5 shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the third sentence of this Section shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the third sentence of this Section 3.5. All deeds, leases or contracts made or entered into by Owner as to the Units or the Development or portion thereof, shall contain covenants concerning discrimination as prescribed by the AHDDL. The Owner shall include a statement in all advertisements, notices, and signs for the availability of the Units for rent to the effect that the Owner is an Equal Housing Opportunity Provider.

Nothing in this Section 3.5 is intended to require the Owner to change the character, design, use, or operation of the Development from, or to require the Owner to obtain licenses or permits other than those required for, a rental housing development.

ARTICLE 4. INCOME CERTIFICATION AND REPORTING

4.1 Income Certification. The Owner shall obtain, complete, and maintain on file, immediately prior to initial occupancy of each Restricted Unit and annually thereafter, income certifications from each tenant household renting any of the Restricted Units. The Owner shall make a good faith effort to verify that the income provided by an applicant seeking to occupy a Restricted Unit or a household then occupying a Restricted Unit in an income certification is accurate by taking one or more of the following steps as a part of the verification process: (a) obtain a pay stub for the most recent pay period; (b) obtain a W-2 form or an income tax return for the most recent tax year; (c) conduct a credit agency or similar search; (d) obtain an income verification form from the applicant's current employer; (e) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (f) if the applicant is unemployed and has no such income verification information, obtain another form of independent verification. Copies of tenant income certifications shall be available to the City upon request.

4.2 Annual Report to the City. On May 1st of each year commencing on May 1st in the first year after the City's issuance of a Certificate of Occupancy for the Development pursuant to the AHDDL, the Owner shall submit a report to the City, in the same form as required by TCAC. Such report shall include for each Restricted Unit, the Rent and the income and size of the household occupying the Restricted Unit. The report shall also state the date the tenancy commenced for each Restricted Unit and such other information as the City may be required by law to obtain.

4.3 Additional Information. The Owner shall provide any additional information reasonably requested by the City. The City shall have the right to examine and make copies of all

Exhibit H

books, records or other documents of the Owner which pertain to any Unit during normal business hours.

4.4 Records. The Owner shall maintain complete, accurate and current records pertaining to the Units, and shall permit any duly authorized representative of the City (during business hours and upon not less than seventy-two (72) hours' notice) to inspect records, including records pertaining to income and household size of tenant households of the Restricted Units.

ARTICLE 5. PROPERTY MANAGEMENT

5.1 Management Responsibilities. The Owner is specifically responsible, subject to its obligations herein, for all management functions with respect to the Development, including without limitation the selection of tenants, certification and recertification of household size and income of tenants in Restricted Units, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Development.

5.2 Management Agent; Budget; Periodic Reports.

(a) Management Agent. The Development shall at all times be managed by an experienced management agent (the "**Management Agent**") reasonably acceptable to the City, with demonstrated ability to operate affordable rental housing complexes similar to the Development in a manner that will provide decent, safe, and sanitary housing and a well-maintained complex. The Owner shall submit for the City's approval the identity of any proposed Management Agent. The Owner shall also submit such additional information about the background, experience, and financial condition of any proposed Management Agent as is reasonably necessary for the City to determine whether the proposed Management Agent meets the standard for a qualified Management Agent set forth above. If the proposed Management Agent meets the standard for a qualified Management Agent set forth above, the City shall approve the proposed Management Agent by notifying the Owner in writing. Unless the proposed Management Agent is disapproved by the City within thirty (30) days, which disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved. Advanced Property Services Management, Inc. is hereby approved as the initial Management Agent.

(b) Annual Budget. The Owner shall provide the City for its review and approval, not later than thirty (30) days prior to commencement of each Fiscal Year, the annual budget for the upcoming Fiscal Year, which shall be in a form acceptable to the City. Unless the proposed annual budget, including without limitation, expenses for payroll, administration, property management costs, and replacement and operating reserves is disapproved by the City within thirty (30) days, which disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved.

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(c) Development Reserves. The Owner shall maintain operating reserves and replacement reserves for the Development as required by other lenders or financing sources for the Development and as the Owner deems financially prudent.

(d) Books, Records and Reports. The Owner shall provide the City, by May 1st of each Fiscal Year, a report showing the actual income and expenditures with respect to the Development for the immediately preceding Fiscal Year and the status of all reserve funds, including without limitation, an annual audited financial statement for the Development prepared by a certified public accountant approved by the City.

5.3 Management Plan. Within thirty (30) days of the date of this Agreement, the Owner shall submit to the City for review and approval a plan for managing the Development (the "**Management Plan**"). The Management Plan shall address in detail how the Owner and the Management Agent plan to manage and maintain the Development, and shall include appropriate financial information and documentation. The Owner and the Management Agent shall abide by the terms of the Management Plan in managing and maintaining the Development.

5.4 Maintenance and Security. The Owner shall, at its own expense, maintain the Development and the Property in good condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions for the benefit of the occupants and as otherwise required in the AHDDLA. The Owner shall not commit or permit any waste on or to the Development or the Property, and shall prevent and/or rectify any physical deterioration of the Development or the Property. The Owner shall provide adequate ongoing security equipment and services for the Development and the Property, including at a minimum fencing around the Property prior to and during construction. The Owner shall maintain the Development and the Property in conformance with all applicable state, federal, and local laws, ordinances, codes, and regulations and the Management Plan.

5.5 Insurance Coverage. The Owner shall cause to have in full force and effect during the Term of this Agreement insurance coverage as required in the AHDDLA.

5.6 Property Damage or Destruction. If any building or improvements erected by the Owner on the Property shall be damaged or destroyed by an insurable cause, the Owner shall, at its own cost and expense, but subject to the extent and availability of sufficient insurance proceeds and other lender requirements, diligently repair or restore the Property to its pre-damage or pre-destruction condition. Such work or repair shall be commenced within one hundred twenty (120) days after the damage or loss occurs and shall be completed within two (2) years thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Owner shall obtain from other sources the funds necessary to complete the work.

5.7 Hazardous Materials. During the Term of this Agreement, the Owner shall comply with all of the obligations contained in the AHDDLA with respect to Hazardous Materials as defined in the AHDDLA.

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ARTICLE 6. MISCELLANEOUS

6.1 Term. The provisions of this Agreement shall apply to the Property for the entire Term. This Agreement shall bind any partner, successor, heir or assign of the Owner, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, with or without the approval of the City, except as expressly released by the City.

6.2 Subordination. This Agreement shall be subordinated in priority only to the liens and encumbrances approved by the City pursuant to the AHDDL A or otherwise approved in writing by the City in its reasonable discretion.

6.3 Transfer and Encumbrance of Property. Except as otherwise provided in the AHDDL A, during the Term of this Agreement, the Owner shall not make or permit any sale, assignment, conveyance, lease (other than the rental of the Units to eligible tenant occupants), or transfer of the Property or any part thereof, without the prior written consent of the City. The City shall give its consent which shall not be unreasonably withheld or delayed, to a sale, transfer, or conveyance in the following situations: (1) the Owner is in compliance with this Agreement and the AHDDL A, or (2) the sale, transfer, or conveyance will result in the cure of any existing violations of this Agreement or the AHDDL A.

6.4 Non-Liability of Officials, Employees and Agents. The City shall not be personally liable to the Owner for any obligation created under the terms of this Agreement except in the case of actual fraud, willful misconduct or sole gross negligence by such person.

6.5 Indemnity. Notwithstanding the insurance coverage required herein, the Owner shall indemnify and hold the City free and harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including without limitation attorneys' fees) which the City may incur as a direct or indirect consequence of (a) the Owner's negligent or willful failure to perform any obligations as and when required by this Agreement; (b) any failure of any of the Owner's representations or warranties to be true and complete; or (c) any negligent or willful act or omission by the Owner or any contractor, subcontractor, management agent, or supplier with respect to the Development or the Property, except where such losses are caused by the sole gross negligence, or willful misconduct of the City. The Owner shall pay immediately upon the City's demand any amounts owing under this indemnity. The duty of the Owner to indemnify includes the duty to defend the City in any court action, administrative action, or other proceeding brought by any third party arising from the Development or the Property. The Owner's duty to indemnify the City for acts, failures to act, or misrepresentations occurring during the Term shall survive the Term of this Agreement.

6.6 Covenants to Run With the Land. The City and the Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property, provided, however, that on the expiration of the Term of this Agreement said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered and accepted subject

Exhibit H

to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the City expressly releases such conveyed portion of the Property from the requirements of this Agreement.

6.7 Enforcement. If the Owner fails to perform any obligation under this Agreement, and fails to cure the default within thirty (30) days after the City has notified the Owner and the Investor Limited Partner (if any) in writing of the default or, if the default cannot be cured within thirty (30) days, fails to commence to cure within thirty (30) days and thereafter diligently pursue such cure, the City shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law:

(a) Action to Compel Performance or for Damages. The City may bring an action at law or in equity to compel the Owner's performance of its obligations under this Agreement, and/or for damages.

(b) Remedies Provided Under AHDDLA. The City may exercise any other applicable remedy provided under the AHDDLA.

The Investor Limited Partner (if any) shall have the right, but not the obligation, to cure defaults of the Owner hereunder in the same time and manner as the Owner is permitted to cure such defaults.

6.8 Attorneys' Fees and Costs. In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including attorneys' fees. Attorneys' fees for in-house City Attorney staff, if awarded, shall be calculated at the market rate. This Section 6.8 shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

6.9 Recording and Filing. The City and the Owner shall cause this Agreement, and all amendments and supplements to it, to be recorded in the Official Records of the County of Orange.

6.10 Governing Law. This Agreement shall be governed by the laws of the State of California, except those provisions preempted by federal law.

6.11 Amendments. This Agreement may be amended only if approved by the City Council and only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of Orange, California.

6.12 Notices. All notices given or certificates delivered under this Agreement shall be deemed received on the delivery or refusal date shown on the delivery receipt, if: (a) personally delivered by a commercial service which furnishes signed receipts of delivery or (b) mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

Exhibit H

City:	City of Orange 300 E. Chapman Avenue Orange, CA 92866 Attn: City Manager
With a copy to:	City Attorney City of Orange 300 E. Chapman Avenue Orange, CA 92866
Owner:	Orange Housing Development Corporation 414 East Chapman Avenue Orange, CA 92866 Attn: Chief Executive Officer
With a copy to:	C & C Development Co, LLC 14211 Yorba Street, Suite 200 Tustin, California 92780 Attn: Todd R. Cottle
With a copy to Owner's Investor Limited Partner for so long as the Investor Limited Partner is a partner in Owner:	At the address Owner provides via certified mail to City

Any of the parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or communications shall be sent.

6.13 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

6.14 Regulatory Agreement Controls. In the event that any provisions of the Agreement and AHDDL conflict, the terms of this Agreement shall control.

6.15 Relationship of Parties. The relationship of the Owner and the City during the Term of this Agreement shall not be construed as a joint venture, equity venture, or partnership. The City does not undertake and does not assume any responsibility or duty to the Owner or any third party with respect to the operation of the Development or the actions of the Owner. The Owner shall have no authority to act as an agent of the City or to bind the City to any obligation.

6.16 Waiver. Any waiver by the City of any obligation in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of the Owner or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to the Owner to perform any obligation under this

Exhibit H

Agreement shall not operate as a waiver or release from any of its other obligations under this Agreement. Consent by the City to any act or omission by the Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

6.17 Consent and Approvals. Any consent or approval by the City or the Owner required under this Agreement shall not be unreasonably delayed or withheld, unless otherwise provided in this Agreement. Any approval required under this Agreement shall be in writing and executed by an authorized representative of the party granting the approval.

6.18 City Actions. Except where approval by the City Council is expressly required in this Agreement, all references in this Agreement to City action (including approvals, consents or extensions of time) shall mean action by the City Manager of the City or the City Manager's designee.

6.19 Counterparts. This Agreement may be executed in counterparts which shall together constitute one document.

[SIGNATURES APPEAR ON NEXT PAGE]

Exhibit H

IN WITNESS WHEREOF, the City and Owner have executed this Regulatory Agreement and Declaration of Covenants and Restrictions by duly authorized representatives on the date first written hereinabove.

"OWNER"

_____, LP,
a California limited partnership

By: OHDC _____ LLC, a
California limited liability company, its
managing general partner

By: Orange Housing Development
Corporation, a California nonprofit
corporation, its sole member

By: _____
Eunice Bobert
Chief Executive Officer

By: C&C _____ LLC, a California limited
liability company, its developer general
partner

By: _____
Todd R. Cottle, Trustee of the 2007
Todd R. Cottle and Jennifer N. Cottle
Revocable Trust, its member

By: _____
Barry A. Cottle, Trustee of
The Cottle Family Trust Dated
3/8/1987, its member

"CITY"

CITY OF ORANGE, a municipal corporation
of the State of California

By: _____
Mark A. Murphy, Mayor

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

By: _____
Gary A. Sheatz, City Attorney

APPROVED AS TO CONTENT:

By: _____
_____,
Director of Community Development

Exhibit H

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY
[to be attached]

Exhibit H

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, 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.

Name: _____
Notary Public

Exhibit H

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, 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.

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Notary Public

Exhibit H

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)
COUNTY OF _____)

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WITNESS my hand and official seal.

Name: _____
Notary Public

Exhibit H

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STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, 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.

Name: _____
Notary Public

Exhibit H

EXHIBIT I

FORM OF NOTICE OF AFFORDABILITY RESTRICTIONS

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF ORANGE
300 E. Chapman Avenue
Orange, CA 92866
Attn: City Manager

(Exempt from Recording Fee per *Gov. Code*
§§ 6103, 27383 & 27388.1(a)(2)(D))

(Space Above This Line for Recorder's Office Use Only)

NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY

NOTICE IS HEREBY GIVEN, that the City of Orange, a municipal corporation of the State of California (the "**City**"), has required _____ LP, a California limited partnership (the "**Owner**"), to enter into certain affordability covenants and restrictions entitled, Regulatory Agreement and Declaration of Restrictive Covenants and Restrictions (the "**Restrictions**"), with reference to a housing development (the "**Development**") situated on that certain real property (the "**Property**"), located at _____, City of Orange, County of Orange, Assessor's Parcel Nos. as listed on and as further described in Exhibit 1, attached and incorporated herein by reference.

The affordability covenants and restrictions contained in the Restrictions include without limitation and as further described in the Restrictions:

1. Eight (8) units in the Development are restricted for occupancy by extremely low income households, at rents affordable to Extremely Low Income households.
2. Twelve (12) units in the Development are restricted for occupancy by Very Low Income households, at rents affordable to such households.
3. Seven (7) units in the Development are restricted for occupancy by 70% Income households, at rents affordable to such households.
4. Thirty-four (34) units in the Development are restricted for occupancy by Low Income households, at rents affordable to such households.
5. Additional requirements concerning operation, management, and maintenance of the Development are also imposed by the Restrictions.

In the event of any conflict between this Notice of Affordability Restrictions on Transfer of Property (the "**Notice**") and the Restrictions, the terms of the Restrictions shall prevail.

Exhibit I

PAGE 1 OF 9

The Restrictions were recorded concurrently herewith in the Official Records of Orange County, and shall remain in effect until the later of the date that is fifty-five (55) years after the recordation of the Restrictions or December 31, 2076.

This Notice is being recorded and filed by the City in compliance with Health and Safety Code Sections 33334.3(f)(3) and (4), as amended effective this date, and shall be indexed against the City and the Owner.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the parties have executed this Notice of Affordability Restrictions on Transfer of Property on or as of the date first written above.

OWNER:

_____ LP,
a California limited partnership

By: OHDC _____ LLC, a California limited liability company, its managing general partner

By: Orange Housing Development Corporation, a California nonprofit public benefit corporation, its sole member and manager

By: _____
Eunice Bobert
Chief Executive Officer

By: C&C _____ LLC, a California limited liability company, its developer general partner

By: C & C Development Co., LLC, a California limited liability company, its sole member and manager

By: _____
Todd R. Cottle, Trustee of the 2007 Todd R. Cottle and Jennifer N. Cottle Revocable Trust, its member

By: _____
Barry A. Cottle, Trustee of
The Cottle Family Trust Dated 3/8/1987, its member

[Signatures Continue on Following Page]

CITY OF ORANGE, a California municipal
corporation

By: _____
Mark A. Murphy
Mayor of the City of Orange

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Gary A. Sheatz
City Attorney

APPROVED AS TO CONTENT:

Director of Community Development

EXHIBIT 1

LEGAL DESCRIPTION OF THE PROPERTY

[to be attached – include APNs]

Exhibit I

PAGE 5 OF 9

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public,
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.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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COUNTY OF _____)

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STATE OF CALIFORNIA)

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Name: _____
Notary Public