

RESOLUTION NO. 2025-xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE SUBDIVISION, MASTER PLAN WITH DENSITY BONUS, AND AFFORDABLE HOUSING / DISPOSITION AND DEVELOPMENT AGREEMENT AND GROUND LEASE FOR THE DEVELOPMENT OF A 70-UNIT SENIOR AFFORDABLE MULTI-FAMILY RESIDENTIAL PROJECT LOCATED ON A PORTION OF THE SENIOR CENTER PARKING LOT AT 695 WEST 19TH STREET

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY FINDS AND DECLARES AS FOLLOWS:

WHEREAS, a Tentative Parcel Map, Master Plan, and Density Bonus Application was filed by Tish Kelly, on behalf of Jamboree Housing Corporation (JHC), requesting approval of the following: Tentative Parcel Map, Master Plan, and Density Bonus to facilitate the development of a 70-unit affordable senior and supportive housing project. The project proposes to develop an approximate 93,972 square-foot, four story building on the Costa Mesa Senior Center parking lot (a City owned property) located at 695 West 19th Street;

WHEREAS, on July 21, 2020, the City Council approved an Exclusive Negotiating Agreement (ENA) with JHC to study and determine the feasibility for the right to acquire a long-term leasehold for an affordable senior housing project to be developed on a portion of the City's Senior Center parking lot;

WHEREAS, the ENA was approved for a one-year term with an allowable 120-day extension, which was granted by the City, but ultimately expired in 2022;

WHEREAS, the proposed mixed-use project is located within the boundary of the 19 West Urban Plan, and the Costa Mesa Municipal Code (CMMC) Section 13-28(g)(4) and provisions of the 19 West Urban Plan requires that a screening be conducted for residential or mixed-use development projects in a mixed-use overlay district;

WHEREAS, a screening provides awareness of the application to the community and gives the City Council an opportunity to offer comments on the merits and appropriateness of the proposed development before the applicant submits the formal planning application(s);

WHEREAS, a screening for Urban Master Plan UMP-21-007 was conducted by the City Council February 20, 2024, pursuant to the requirements of the 19 West Urban Plan:

WHEREAS, the Master Plan proposes a mixed-use development and is consistent with and meets the objectives of the 19 West Urban Plan as mixed-use developments are encouraged and is compatible with the existing commercial and residential uses nearby;

WHEREAS, on August 6, 2024, the City Council approved the Affordable Housing Ordinance (Ordinance No. 2024-02);

WHEREAS, per the Affordable Housing Ordinance (Ordinance No. 2024-02), the project requires an Affordable Housing Plan and Affordable Housing Agreement as the project meets the affordable housing requirements in that the development proposes more than 50 rental units;

WHEREAS, pursuant to State Density Bonus Law, the project includes a request for a density bonus based upon being a 100% senior affordable housing project, excluding the manager's unit, pursuant to Government Code Section 65915(b)(1)(G);

WHEREAS, of the 69 affordable units, 34 units will be dedicated to seniors with incomes at or below 30% of the area median income (AMI), and 35 units will be dedicated to seniors with incomes at or below 60% of the AMI;

WHEREAS, State Density Bonus Law entitles affordable housing projects to certain waivers, incentives and concessions.

WHEREAS, the applicant has proposed to use four incentives/concessions to deviate from the following development standards: reduced parking space next to columns; reduced front building setback (along West 19th Street); reduced open space; and reduced residential open space;

WHEREAS, the Planning Commission is the recommending body and the City Council is the final decision-maker for the Tentative Parcel Map, Master Plan, Density Bonus and other associated regulatory agreements;

WHEREAS, a duly-noticed public hearing was held by the Planning Commission to make a project recommendation to the City Council on December 9, 2024 with all persons having the opportunity to speak for and against the proposal;

WHEREAS, after reviewing the project and considering public comments, the Planning Commission recommended City Council approval of the project;

WHEREAS, Pursuant to California Government Code Section 65402(a), *“If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof.”*

WHEREAS, the long-term leasing of the Senior Center property to a private entity by the City is subject to Government Code Section 65402(a).

WHEREAS, pursuant to Section 65402(a), the Planning Commission (“Planning Agency”) on December 9, 2024, determined that the project and specifically the disposition of the property for a long-term lease for affordable senior housing purposes is in conformance with the City’s General Plan in regard to location, purpose and extent:

Location of the Ground Lease:

The proposed property ground lease area is located in the eastern portion of the City on the City’s Senior Center Parking lot. The proposed ground lease location for the development of affordable senior housing units is compatible with the adjacent Senior Center in that both the existing use and proposed use serve the same populations. In addition, most of the services provided by the City’s Senior Center at this location caters to the senior population that would be housed at the proposed affordable senior housing development. There is also another senior housing development (“Tower on 19th”) located nearby at 678 West 19th Street which includes an affordability covenant and Section 8 housing units; therefore, the proposed location of the development is neighborhood compatible. The location of the property ground lease disposition is consistent with numerous General Plan policies regarding affordable housing, and providing for the development of a mix and balance of housing opportunities, in consideration of the need of the business

and residential segments of the community. Lastly, the site is identified in the City's General Plan Housing Element as a location to plan for senior housing.

Purpose of the Ground Lease:

The purpose of the ground lease is consistent with the General Plan Housing Element Program 2D regarding development of affordable senior housing on the City's Senior Center site specified specifically by the City's Housing Element, and the purpose of numerous Housing Element General Plan polices such as, but not limited to, Housing Element Policy 2.1 which states to *"facilitate the development of housing that meets the needs of all segments of the population including affordable housing and households with specialized needs"*, and Housing Element Policy 2-4 which states to *"encourage housing programs and future actions that address the need for affordable housing options as well as the housing needs of Costa Mesa's senior resident population and the large households' population"*.

Extent of the Ground Lease:

The proposed ground lease is for the use and development of a portion of the surface parking lot located at the existing 2.66-acre City-owned Senior Center property at 695 West 19th Street. The extent of the use and lease area would be for the purposes of providing affordable senior housing units. The City of Costa Mesa General Plan Housing Element Program 2D specifies to "facilitate development of senior housing options" and specifically identifies the Senior Center as a development option that is to be considered for this use. The City's Housing Element specifies that 60 affordable units shall be provided, and the application provides for more than 60 units and therefore the extent of the ground lease and associated project more than complies with the General Plan.

WHEREAS, a duly-noticed public hearing was held by the City Council on March 18, 2025 with all persons having the opportunity to speak for and against the proposal;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15332 (Class 32), for In-Fill Development projects;

WHEREAS, the CEQA categorical exemption for this project reflects the independent judgement of the City of Costa Mesa.

WHEREAS, pursuant Government Code Section 65863, the “No Net Loss Law” cities are required to ensure that housing development opportunities remain available throughout the housing element planning period to accommodate a jurisdiction’s regional housing needs assessment (RHNA). This Government Code further stipulates that “If the city approves a development of a parcel identified in its Housing Element sites inventory with fewer units than shown in the Housing Element, it must either make findings that the Housing Element’s remaining sites have sufficient capacity to accommodate the remaining unmet RHNA by each income level, or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category.”

WHEREAS, the Senior Center property is identified in the City’s Housing Element Sites Inventory List to provide 40 very low-income units and 20 low-income units, totaling 60 units, and the project proposes 34 very low-income units, and 35 low-income units, resulting in a site shortfall of six very-low-income units.

WHEREAS, the required finding pursuant Government Code Section 65863 can be made as the City’s Housing Element “Site Analysis” includes a surplus of more than six very-low-income housing units which will ensure that the Housing Element’s remaining sites have sufficient capacity to accommodate the remaining unmet RHNA by each income level.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES as follows: based on the evidence in the record and the findings contained in Exhibit A, and conditions as shown in Exhibit B, the City Council hereby finds that the proposed project is in conformance with the General Plan and approves the Tentative Parcel Map, Master Plan with Density Bonus, Affordable Housing / Disposition and Development Agreement, and Ground Lease, as shown in Exhibit C, attached hereto.

PASSED AND ADOPTED this 18th day of **March, 2025**.

John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 2024-xx and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 18th day of March, 2025, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 19th day of March, 2025.

Brenda Green, City Clerk

EXHIBIT A

FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(g)(13) – “Parcel Map Findings” because:

Finding: The creation of the subdivision and related improvements is consistent with the general plan, any applicable specific plan, and this Zoning Code.

Facts in Support of Finding: The creation of the subdivision aligns with the General Plan by promoting residential development that meets the community's housing needs. Additionally, the subdivision complies with the local Zoning Code and State laws by conforming to established development regulations. Overall, this project supports the City's vision for balanced development and affordable senior housing.

Finding: The proposed use of the subdivision is compatible with the general plan.

Facts in Support of Finding: The proposed development aligns with the General Plan by addressing the critical need for affordable housing options for seniors within the community. Located in the 19 West Urban Plan area, this development promotes the City's goals of increasing residential density while enhancing accessibility to essential services and transportation. Furthermore, the project supports the General Plan's emphasis on creating inclusive neighborhoods, thereby fostering a supportive environment for vulnerable populations and contributing to the overall well-being of the community.

Finding: The subject property is physically suitable to accommodate the subdivision in terms of type, design and density of development, and will not result in substantial environmental damage nor public health problems, based on compliance with the Zoning Code and general plan, and consideration of appropriate environmental information.

Facts in Support of Finding: The proposed development will be situated in an urbanized area, specifically on a portion of the existing Senior Center's asphalt parking lot. The site meets the minimum lot size requirement and is a typical shaped lot that can accommodate the building and necessary utilities. The soils are consistent with those of the existing Senior Center and nearby apartment building across West 19th Street, consisting of soil with no significant differences and/or known contaminants. There are no wildlife habitat or bodies of water on the site or nearby, further ensuring that the development will not result in substantial environmental damage. This strategic location allows for the efficient use of already developed land, minimizing the need for additional site disturbance and preserving green spaces elsewhere in the community. By repurposing this underutilized area, the project will enhance the functionality of

the Senior Center while providing much-needed affordable housing for seniors.

Finding: The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision, as required by State Government Code section 66473.1.

Facts in Support of Finding: The design of the proposed development thoughtfully considers the orientation of the lot, aligning in a manner that maximizes solar exposure, ensuring natural passive heating during colder months. Additionally, the layout incorporates an outdoor courtyard at the center of the development and green spaces to promote natural airflow and cooling, minimizing the need for artificial heating or air conditioning. This approach reflects the principles outlined in State Government Code section 66473.1.

Finding: The division and development will not unreasonably interfere with the free and complete exercise of the public entity and/or public utility rights-of-way and/or easements within the tract.

Facts in Support of Finding: The proposed development has been designed to ensure that all existing public entity and utility rights-of-way and easements within the subdivision remain accessible and unobstructed. Coordination with utility providers and the City will be maintained throughout the development process to avoid any disruptions and ensure that essential services can continue to operate efficiently.

Finding: The discharge of sewage from this land division into the public sewer system will not violate the requirements of the State Regional Water Quality Control Board pursuant to Division 7 (commencing with State Water Code section 13000).

Facts in Support of Finding: The applicant has submitted a Preliminary Water Quality Management Plan (PQWMB), which demonstrates that the project will implement best management practices to effectively manage wastewater and prevent any violations of water quality standards.

- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29(g)(5) “**Master Plan Findings**” because:

Finding: The master plan meets the broader goals of the General Plan, any applicable specific plan, and the Zoning Code by exhibiting excellence in design, site planning, integration of uses and structures and protection of the integrity of neighboring development.

Facts in Support of Finding: The proposed development is consistent with the broader goals of the General Plan by promoting housing opportunities, as specified in General Plan Land Use Policy LU-1.1, Housing Element Policies HOU-2.1, and Housing Element Policy 2-4. The project is designed to integrate

with the existing Senior Center, enhancing community services and accessibility, which supports the 19 West Urban Plan's emphasis on mixed-use development. Additionally, the design reflects high-quality architectural standards and thoughtful site planning that maintain the character and integrity of the surrounding residential and commercial areas. By prioritizing community amenities, the development fosters a sense of place while contributing to the overall livability of the highly urbanized environment.

Finding: The Master plan findings can be made for mixed-use development projects in the mixed-use overlay district identified in Chapter V, Article 11, mixed-use overlay district.

Facts in Support of Finding: The proposed development complies with the master plan findings outlined in Chapter V, Article 11 of the Mixed-Use Overlay District, which are further detailed in the following section.

Finding: As applicable to affordable multi-family housing developments, the project complies with the maximum density standards allowed pursuant to the general plan and provides affordable housing to low and very-low income households, as defined by the California Department of Housing and Community Development. The project includes long-term affordability covenants in compliance with State law.

Facts in Support of Finding: The proposed development of 69 units of affordable senior and permanent supportive housing complies with the General Plan's requirements by providing affordable housing to low and very-low-income households, as defined by the California Department of Housing and Community Development. While the 19 West Urban Plan does not establish specific density standards, the project adheres to the required Floor Area Ratio (FAR) guidelines, ensuring efficient use of the site. Of the 69 affordable units, 34 are set aside for seniors with incomes at or below 30% of the Area Median Income (AMI), while 35 units are designated for seniors with incomes at or below 60% of the AMI. Furthermore, all units will be guaranteed to remain affordable for a minimum of 55 years through the associated regulatory agreements.

- C. The proposed project complies with Costa Mesa Municipal Code Section 13-83.53(c) - **Master Plan Findings for Mixed-Use Overlay District**" because:

Finding: The project is consistent with the general plan, meets the purpose and intent of the mixed-use overlay district, and the stated policies of the urban plan as applicable.

Facts in Support of Finding: The proposed development is consistent with the General Plan and meets the purpose and intent of the mixed-use overlay district by integrating residential uses within the context of the existing Senior Center. This project not only provides much-needed housing for seniors but also complements

the area's revitalization goals by enhancing the mix of uses, promoting community amenities, and encouraging accessibility to nearby commercial services. Additionally, the development supports the urban plan's policies by maximizing site utilization without exceeding the capacity of the General Plan transportation system, ultimately attracting more residents and fostering a vibrant, mixed-use environment.

Finding: The project includes adequate resident-serving amenities in the common open space areas and/or private open space areas in areas including, but not limited to, patios, balconies, roof terraces, walkways, and landscaped areas.

Facts in Support of Finding: The proposed development includes a variety of resident-serving amenities within both common and private open space areas. Ground-level amenities facing 19th Street will feature office spaces, a community room, media lounge, and a dog run, while the upper levels will offer an outdoor courtyard, fitness center, laundry room, and library, fostering a sense of community among residents. Although the project does not meet the minimum development lot open space requirement or the residential open space per dwelling unit, State density bonus law allows concessions, and therefore the project would not need to comply with these standards.

Finding: The project is consistent with the compatibility standards for residential development in that it provides adequate protection for residents from excessive noise, odors, vibration, light and glare, and toxic emanations.

Facts in Support of Finding: The project includes STC-rated windows and sound insulation materials to effectively mitigate external noise, ensuring that residential interior noise levels remain within acceptable limits. Additionally, proper ventilation systems and landscaping buffers are incorporated to control odors from nearby commercial areas. Furthermore, the development adheres to environmental regulations that limit exposure to toxic emanations, while lighting design employs shielding and strategic placement to minimize light spill and glare.

Finding: The proposed residences have adequate separation and screening from adjacent commercial/industrial uses through site planning considerations, structural features, landscaping, and perimeter walls.

Facts in Support of Finding: The project incorporates a minimum setback from adjacent commercial and residential properties, enhancing separation and reducing potential conflicts. Additionally, the design includes landscaping buffers, such as trees and shrubs, that provide natural screening to minimize visual impact and enhance privacy for residents. Structural features, including soundproofing measures and walls, further ensure that the residential environment remains comfortable and secure, effectively mitigating any adverse effects from surrounding

uses.

D.

The proposed project complies with Costa Mesa Municipal Code Section 13-29(g)(3) – “**Density Bonus and Concession or Incentive Findings**” because:

Finding: The request is consistent with State Government Code section 65915 et. seq. regarding density bonuses and other incentives, the general plan, any applicable specific plan, and Chapter IX special regulations, Article 4 density bonuses and other incentives.

Facts in Support of Finding: The proposed development of affordable senior and permanent supportive housing at 695 West 19th Street qualifies for five incentives and unlimited waivers or reductions of development standards, as it provides a 100 percent affordable housing development and is located within half a mile of a major transit stop. Excluding the manager's unit, 69 of the units will be available to seniors with income levels ranging from 30% to 60% of the Area Median Income (AMI), with 34 units designated for seniors experiencing homelessness and 35 units set aside for those at or below 60% of the AMI. The requested concessions, including a reduction of the open space requirement to approximately 5%, a residential open space reduction to approximately 169 SF per unit, a front setback reduction to 0'-6", and zero additional width for parking spaces adjacent to a column are necessary to ensure the project's feasibility while providing vital housing for low-income seniors. These concessions align with the goals of the General Plan, and the 19 West Urban Plan, promoting affordable housing development in a highly urbanized area.

Finding: The requested density bonus and incentive or concession constitute the minimum amount necessary to provide housing at the target rents or sale prices and/or a child-care facility.

Facts in Support of Finding: The requested density bonus and incentives for the proposed development constitutes the minimum necessary to provide affordable housing at target rents, as the project aims to serve a total of 70 units, exceeding the City's Housing Element Sites Inventory capacity for 60 units at the subject site. While the number of very low-income units has been slightly reduced to 34, the number of low-income units has significantly increased to 35. According to the applicant and including State and federal funding sourcing, the concessions are required to allow the below market rate project to feasibly proceed economically.

Finding: The granting of the incentive or concession is required in order to provide for affordable housing costs, as defined in Health and Safety Code section 50052.5 or for rents for the targeted units.

Facts in Support of Finding: The granting of the requested concessions is essential to the feasibility of the proposed 100% affordable senior residential

development, as these modifications enable the project to provide critical housing for low-income seniors in Costa Mesa within a project scope and budget that can achieve the minimum and competitive criteria to obtain applicable grant funding. Specifically, the reductions in open space and front setback requirements allow for enhanced amenities and more efficient use of space, ultimately ensuring that the project can deliver affordable rents consistent with Health and Safety Code section 50052.5.

Finding: The granting of the incentive or concession and/or the waiver or reduction of development standards does not have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Government Code section 65589.5 upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

Facts in Support of Finding: The proposed concessions support the community's health, safety, and physical environment by facilitating the addition of residential units in an urbanized area designated for such development, as outlined in the City's Housing Element and the applicable 19 West Urban Plan. These additional units will help achieve a better balance between jobs and housing, leveraging the proximity to schools, parks, retail centers, and employment opportunities. Moreover, the site is already surrounded by existing senior affordable residential apartments and can utilize existing infrastructure, ensuring that the development will not encroach on land reserved for open space. The reduction in open space, front yard setback and required parking space width adjacent to a structural column are not anticipated to result in impacts to public health, safety or the physical environment.

Finding: The granting of the incentive or concession and/or the waiver or reduction of development standards does not have an adverse impact on any real property that is listed in the California Register of Historical Resources.

Facts in Support of Finding: The proposed project is located on a site that is not listed in the California Register of Historical Resources and is neither adjacent to any such properties, ensuring that the granting of the requested incentives and concessions will not adversely impact any historically significant real property.

Pursuant to Senate Bill 166 [Government Code Section 65863], the "No Net Loss Law" was amended to ensure that housing development opportunities remain available throughout the housing element planning period to accommodate a jurisdiction's regional housing needs assessment (RHNA). One aspect of this amended legislation requires that "If the city approves a development of a parcel identified in its Housing Element sites inventory with fewer units than shown in the Housing Element, it must either make findings that the Housing Element's remaining sites have sufficient capacity to accommodate the remaining unmet

RHNA by each income level [emphasis added] or identify and make available sufficient sites to accommodate the remaining unmet RHNA for each income category”.

- The proposed Affordable Senior Housing project includes a total of 70 units, exceeding the City’s Housing Element Sites Inventory capacity for 60 units for the subject site. However, according to the City’s adopted Housing Element “Sites Analysis” (Appendix B), the Senior Center property is identified with providing 40 very-low-income units and 20 low-income units. The proposed Senior Housing affordable project includes 34 very low-income units and 35 low-income units, and therefore is deficient six very-low-income units. Although the development as proposed would be deficient very-low-income units (as specified in the City Housing Element “Sites Analysis”), the City’s Housing Element proposes a 96 unit surplus of very-low income units beyond the required RHNA specified very-low income category and therefore a finding can be made that the City’s adopted Housing Element’s remaining sites have sufficient capacity to accommodate the remaining unmet RHNA by each income level.

E. California Environmental Quality Act

California Environmental Quality Act (CEQA) - Class 32 exemption applies to in-fill development projects (CEQA Guidelines §15332). A project can qualify for a Class 32 exemption if the proposed project: (1) is consistent with applicable General Plan designation and all general plan policies, as well as with applicable zoning designation and regulations; (2) the proposed development occurs within City limits on a project site of no more than five (5) acres substantially surrounded by urban uses; (3) the project site has no value as habitat for endangered, rare, or threatened species; (4) the approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (5) the site can be adequately served by all required utilities and public services (CEQA Guidelines §15332). The project is consistent with General Plan policies and regulations. The subject site is situated in a “built-out” urbanized environment and spans 1.5 acres, encompassing a section of the existing developed Senior Center's asphalt parking lot. The subject site does not have any known habitat for endangered, threatened, or rare species of wildlife. Traffic, noise, air quality, and water quality assessments have been conducted to evaluate the potential impacts of the proposed development, and no significant impacts have been identified. In support of this conclusion, several assessments were conducted relative to traffic, air quality, water quality and noise. A summary of those assessments is provided below:

Traffic

The addition of 70 units represents a net increase in the number of residences in the area. Thus, the City’s Transportation Division completed a trip generation analysis to compare the proposed 70-unit project with existing transportation conditions. The City requires a traffic impact analysis (TIA) for all development

projects that generate 50 or more net vehicle trips that end during a peak hour. The proposed project does not meet this threshold since the anticipated additional peak AM and PM hours will result in less than 50 vehicle trips (14 and 17.5 peak hour trips, respectively). Therefore, a TIA is not required. Based on this analysis, the Transportation Division concluded that there will be nominal traffic impacts from the proposed project and that traffic generated by the project can easily be accommodated within Costa Mesa's circulation network.

Air Quality

The residential use is also expected to have nominal air quality impacts due to its small-scale. The development will consist primarily of residential units, which typically generate lower emissions compared to larger commercial projects. Therefore, with less than 227 daily trips, the project's daily operational contributions to air quality impacts would be negligible. From a construction standpoint, potential air quality impacts are given more weight when being developed on a project site that is five acres or more (pursuant to the South Coast Air Quality Management District (SCAQMD)). In this case, the development site would be approximately 1.5 acres and it is relatively flat and will not require significant site grading. Because this site is significantly less than the SCAQMD threshold, it is reasonable to conclude that construction-related air quality impacts will be minimal and not raise to a level that would violate any State or local air quality standards. In addition, staff is not aware of any other construction activities off-site that are planned in the vicinity that would contribute to a cumulative air quality impact. Notwithstanding this, the project will be conditioned to incorporate measures to minimize emissions during construction and operation to ensure compliance with standards set by the SCAQMD.

Water Quality

The applicant has submitted a preliminary water quality management plan (PWQMP), which confirmed that there are no existing contamination plumes on the site or in the surrounding area. This plan also conceptually addresses how the project will filter/clean water originating from the site prior to its downstream release to ensure the project does not contribute to a decreased level of water quality. Because of the measures that will be implemented, the project is not anticipated to have an adverse water quality impact. To ensure compliance with applicable water quality standards, the project will be conditioned to provide a final WQMP for City approval prior to issuance of permits and all WQMP structural and non-structural best management practices will be implemented prior to building permit final.

Noise

From a noise perspective, the applicant submitted a study demonstrating that it will comply with the requirements of the City's Noise Ordinance. In addition, and although not subject to CEQA compliance, the submitted noise study confirms that future residential interior noise levels will not exceed 45 CNEL when using complete window assemblies (including both glass and frames). Exterior project noise levels will also not exceed the 65 CNEL limit. As a result, community noise is not expected to adversely affect future residents of the project.

Lastly, the Public Works Department and utility companies have reviewed the proposed development and found that it can be adequately served by all required utilities and public services. Consequently, it can be determined that the project can be exempted from further CEQA action under the Class 32 exemption.

EXHIBIT B

RECOMMENDED CONDITIONS OF APPROVAL

- Plng.
1. Approval of the Tentative Parcel Map, Master Plan, and Density Bonus is valid for two (2) years from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) a building permit has been issued and construction has commenced, and a valid building permit has been maintained by making satisfactory progress as determined by the Building Official; 2) a certificate of occupancy has been issued. A time extension can be requested no less than thirty (30) days or more than sixty (60) days before the expiration date of the permit and submitted with the appropriate fee for review to the Planning Division. The Director of Development Services may extend the time for an approved permit or approval to be exercised up to 180 days subject to specific findings listed in Title 13, Section 13-29(k)(6). Only one request for an extension of 180 days may be approved by the Director. Any subsequent extension requests shall be considered by the original approval authority.
 2. The 70-unit project shall consist of one unrestricted manager's unit and 69 income-restricted senior affordable units made up of 34 very-low-income qualifying households and 35 low-income qualifying households pursuant to the County of Orange Median Family Income (MFI) levels in accordance with Section 42(g) of the Internal Revenue Code (IRC) as published from time to time by California Tax Credit Allocation Committee (TCAC). Approval of fewer units may be permitted subject to the approval by the Director of Economic and Development Services, subject to consistency with the City's Housing Element, and any applicable State law. City approval of modification to the approved ground lease and/or affordable housing regulatory agreements may also be required.
 3. Prior to issuance of a grading permit, the applicant and City shall enter into a ground lease having a minimum term of 99 years and the term of affordability covenants shall be co-extensive with the lease term .
 4. The applicant shall defend, with the attorneys of City's choosing or otherwise acceptable to City, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, legal action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers and/or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in

enforcing the indemnification provisions set forth in this section.

5. If any section, division, sentence, clause, phrase or portion of this resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.
6. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
7. The project is subject to compliance with all applicable Federal, State, and local laws. A copy of the applicable Costa Mesa Municipal Code requirements has been forwarded to the Applicant and, where applicable, the Authorized Agent, for reference.
8. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
9. Street addresses shall be visible from the public street and may be displayed either on the front door, on the fascia adjacent to the main entrance, or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum six (6) inches in height with not less than one-half-inch stroke and shall contrast sharply with the background.
10. No modification(s) of the approved building elevations including, but not limited to, change of architectural type, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process or a variance, or in the requirement to modify the construction to reflect the approved plans.
11. The project shall be limited to the type of building as described in this staff report and in the attached plans. Any change in the use, size, or design shall require review by the Planning Division and may require an amendment to the Master Plan.
12. The Master Plan herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more and may be referred to the Planning Commission and/or City Council for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or it, in the opinion of the Economic and Development Services Director or designee, any of the findings upon which the approval was based are no longer applicable.
- Bldg. 13. All noise-generating construction activities shall be limited to 7 a.m. to 7

p.m. Monday through Friday and 9 a.m. to 6 p.m. on Saturday. Noise-generating construction activities shall be prohibited on Sunday and the following federal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Limited construction activities may be permitted at other times to prevent operational impacts to the Senior Center subject to approval of the Economic and Development Service Director or designee.

14. Prior to issuance of a building permit, the City's Building and Fire Departments shall review the proposed development plans to determine compliance with all building and safety and fire codes, and to ensure safety, suitable occupancy and the necessary occupant ingress and egress.
15. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time.
16. Comply with the requirements of the adopted California Residential Code, California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards, California Energy Code, and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa at the time of plan submittal or permit issuance. Requirements for accessibility to sites, facilities, buildings, and elements by individuals with disability shall comply with Chapter 11A and 11B of the California Building Code.
17. If soil contamination exists, then remediation plans shall be submitted to both the Building Division and the County of Orange for review, approval and issuing a permit. Building permit(s) shall not be issued until the soil is certified as clean and usable by a Soil's Engineer.
18. Maximum allowable area of building shall be determined in accordance with the applicable provisions of California Building Code sec. 506.2
19. Construction/ improvements that encroach within Public Utility Easements shall require written approvals from the utility companies associated with that easement.
20. The ground adjacent immediately to the foundation shall be sloped away from the building at a slope of not less than 5% for a minimum distance of 10 feet measured perpendicular to the face of the wall CBC sec. 1804.3. See also exception. ii- On graded sites the top of exterior foundation shall extend above the elevation of the street gutter at point of discharge or the inlet of an approved discharge devise a minimum of 12 inches plus 2 percent California Building Code sec. 1808.7.4 i- On graded sites the top of exterior foundation shall extend above the elevation of the street gutter at point of discharge or the inlet of an approved discharge devise a minimum of 12 inches plus 2 percent. California Residential Code CRC 403.1.7.3 ii- Lots shall be graded to drain surface water away from foundation walls. The grade shall fall a minimum of 6 inches within the

first 10 feet. CRC R401.3

21. At any stage of project construction, any parking spaces that are removed on-site must be replaced at off-site locations at a minimum one-to-one basis. Additionally, throughout the development process, the applicant shall use reasonable efforts to minimize the impact of construction on the eight parking stalls in front of the Senior Center. These stalls will be designated as ADA-compliant in accordance with the Westside Costa Mesa Senior Construction Parking Management Plan.
22. At any stage of construction, subcontractors will be restricted to parking within the footprint of the construction site or designated locations, ensuring that no parking occurs in the surrounding residential neighborhood, in accordance with the Westside Costa Mesa Senior Construction Parking Management Plan.
23. The developer shall designate a staff member from their team to serve as a liaison with the community during the construction period. This liaison will be responsible for addressing any questions, comments, or concerns, as outlined in the Westside Costa Mesa Senior Construction Parking Management Plan.
24. The Westside Costa Mesa Senior Construction Parking Management Plan acknowledges that adjustments may be necessary as new information arises before and during the construction period. The construction management plan shall remain dynamic and flexible to effectively address the evolving needs of the City and the senior community throughout the duration of the project.
25. Prior to final inspection or Certificate of Occupancy (C of O), the applicant shall submit for approval to the City of Costa Mesa's Director of Economic and Development Services a Parking Management Plan prepared by a California-licensed traffic engineer with experience in the field of parking and, more specifically, the preparation of parking management plans that establish a shared parking arrangement that will meet the parking needs of the residents, guests, employees/contractors, and potential residents of the senior affordable residential building and of the City of Costa Mesa Senior Center, including during the Senior Center's publicized regular operating hours, and during special events.. If the parking demand is anticipated to exceed 40 spaces for special events, the applicant shall submit a Special Use Permit to the City for review and approval.

In addition to the above, at a minimum, the Parking Management Plan shall also include:

- Provisions that the senior affordable residential building shall provide a maximum of 40 parking spaces within the podium parking structure to accommodate daily operations for residents, staff, deliveries and visitors of the senior affordable residential development.
- Registration of all tenant vehicles to be parked within the footprint

- of the senior affordable residential building;
- Issuance of a parking sticker or similar authorization to be displayed for tenant vehicles parked within the footprint of the senior affordable residential building;
- Provisions prohibiting the use of assigned parking spaces for storage purposes other than an operational vehicle;
- Provisions to timely remove vehicles deemed to be abandoned from the property;
- Provisions that stipulate that any tenant vehicle not parked in its assigned space is subject to immediate towing; and if permitted by applicable law, during the Senior Center’s publicized regular operating hours and during Senior Center special events, the eight accessible parking spaces located on the parcel containing the City of Costa Mesa Senior Center shall be reserved for the exclusive use of the Senior Center.
- Provisions that require the applicant to submit a Special Use Permit to the City for review and approval for any planned event at the senior residential building that is outside of usual or ordinary operations and is anticipated to require the use of more than 40 parking spaces.

The City-approved Parking Management Plan, may be administratively amended from time-to-time by the City of Costa Mesa’s Director of Economic and Development Services to the extent required to address identifiable, recurring, and documented parking and/or circulation issues that have not been addressed by the lessee or their designee following written notice of such issues to the lessee or their designee and the expiration of not less than a 60-day cure period, and shall be implemented by the lessee or their designee for the life of the leasehold interest in the subject property (unless the lessee or their designee and the City of Costa Mesa’s Director of Economic and Development Services agree on an alternate solution and further amend the Parking Management Plan. If mutually determined by the lessee or their designee and the City of Costa Mesa’s Director of Economic and Development Services, additional parking shall be provided via off-site parking or other parking mitigation measure, including, to the extent financially feasible and if no alternative parking mitigation measure is available or sufficient, valet parking. In no case shall future amendments to the Parking Management Plan reduce the total approved number of parking spaces available for the affordable senior center residential building and the City of Costa Mesa Senior Center.

PRIOR TO ISSUANCE OF A DEMOLITION OR GRADING PERMIT

- PIng. 1. Demolition permits for existing structure(s) shall be obtained and all work and inspections completed prior to final building inspections. Applicant is

notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.

2. SCAQMD Rule 403 shall be adhered to and ensure the cleanup of construction-related dirt on approach routes to the site. Rule 403 prohibits the release of fugitive dust emissions from any active operation, open storage pile, or disturbed surface area beyond the property line of the emission sources. Particulate matter deposits on public roadways are also prohibited.
3. All construction contractors shall comply with South Coast Air Quality Management District (SCAQMD) regulations, including Rule 403, Fugitive Dust. All grading (regardless of acreage) shall apply best available control measures for fugitive dust in accordance with Rule 403. To ensure that the project is in full compliance with applicable SCAQMD dust regulations and that there is no nuisance impact off the site, the contractor would implement each of the following:
 - Moisten soil not more than 15 minutes prior to moving soil or conduct whatever watering is necessary to prevent visible dust emissions from exceeding 100 feet in any direction.
 - Apply chemical stabilizers to disturbed surface areas (completed grading areas) within five days of completing grading or apply dust suppressants or vegetation sufficient to maintain a stabilized surface.
 - Water excavated soil piles hourly or covered with temporary coverings.
 - Water exposed surfaces at least twice a day under calm conditions. Water as often as needed on windy days when winds are less than 25 miles per day or during very dry weather in order to maintain a surface crust and prevent the release of visible emissions from the construction site.
 - Wash mud-covered tired and under-carriages of trucks leaving construction sites.
 - Provide for street sweeping, as needed, on adjacent roadways to remove dirt dropped by construction vehicles or mud, which would otherwise be carried off by trucks departing project sites.
 - Securely cover loads with a tight fitting tarp on any truck leaving the construction sites to dispose of debris.
 - Cease grading during period when winds exceed 25 miles per hour.
4. Adequate watering techniques shall be employed to partially mitigate the impact of construction-generated dust particulates. Portions of the project site that are undergoing earth moving operations shall be watered such that a crust will be formed on the ground surface and then watered again at the end of the day.
5. Grading operations shall be suspended during first and second stage ozone episodes or when winds exceed 25 mph.
6. Prior to issuance of grading permits, developer shall identify to the

Development Services Director or designee a construction relations officer to act as a community liaison concerning on-site activity, including resolution of issues related to dust generation from grading/paving activities.

7. Prior to issuance of grading permits, developer shall submit for review and approval a Construction Management Plan. This plan features methods to minimize disruption to the neighboring uses to the fullest extent that is reasonable and practicable. The plan shall include construction parking and vehicle access and specifying staging areas and delivery and hauling truck routes. The plan should mitigate senior center operations and neighborhood disruption during construction. The truck route plan shall preclude truck routes through residential areas and major truck traffic during peak hours. The total truck trips to the site shall not exceed 200 trucks per day (i.e., 100 truck trips to the site plus 100 truck trips from the site) unless approved by the Development Services Director or Transportation Services Manager.
8. Design, grading, and construction shall be performed in accordance with the requirements of the California Building Code applicable at the time of grading as well as the appropriate local grading regulations, and the recommendations of the project geotechnical consultant as summarized in a final written report, subject to review by the City of Costa Mesa Building official prior to issuance of grading permits.
9. Prior to issuance of grading permits, the developer shall conduct at least two in-person community meetings with members/users and staff of the Senior Center and affected neighbors. The second meeting shall be held four months prior to issuance of grading permits. The purpose of these meetings is to:
 - Identify and understand potential impacts of the proposed development on Senior Center operations;
 - Gather input from Senior Center users and affected neighbors regarding their concerns and needs related to the construction process;
 - Discuss and identify method of stakeholders and interested public preferred methods of receiving project information updates and frequencies (e.g. website, flyers, text alerts, social media, etc.);
 - Ensure project information updates and materials are translated into Spanish to reach a broader audience;
 - Discuss that during any stage of the construction process, any parking removed on-site will be replaced at off-site locations on a one-to-one basis, ensuring that the number of the replacement parking is consistent with the spaces being displaced.
 - Discuss and identify off-site parking locations, along with the proposed shuttle and valet services to ensure accessibility for Senior Center users;
 - Discuss and identify specific Senior Center activities and programming that can be consistently hosted at the new

residential development for a specified number of years after building occupancy; and

- Develop and present solutions to effectively mitigate disruptions, ensuring minimal impact on the daily activities and services of the Senior Center and affected neighbors.

The developer shall document the feedback received and respond within a reasonable timeframe to any questions or concerns, including, if warranted, outlining proposed solutions. The developer shall provide copies of any such correspondence to the Director of Economic & Development Services.

- Bldg. 10. Prior to the Building Division (AQMD) issuing a demolition permit contact South Coast Air Quality Management District located at: 21865 Copley Dr. Diamond Bar, CA 91765-4178 Tel: 909- 396-2000 Or Visit their web site
<http://www.costamesaca.gov/modules/showdocument.aspx?documentid=23381> The Building Div. will not issue a demolition permit until an Identification no. is provided by AQMD.
11. Prior to the issuance of grading permits, submit a precise grading plan, an erosion control plan and a hydrology study. A precise grading plan shall not be required if any of the following are met: (1) An excavation which does not exceed 50 CY on any one site and which is less than 2 ft in vertical depth, or which does not create a cut slope greater than 1 ½:1 (excluding foundation area); (2) A fill less than 1 foot in depth placed on natural grade with a slope flatter than 5:1, which does not exceed 50 CY on any one lot and does not obstruct a drainage course; and (3) A fill less than 3 ft in depth, not intended to support structures, which does not exceed 50 CY on any one lot and does not obstruct a drainage course. Prior to issuing the Building permit, the rough grading certificate shall be submitted to the Building Division.
12. Prior to the issuance of grading permits, submit a soils report for this project. Soil's Report recommendations shall be blueprinted on both the architectural and the precise grading plans.
- PIng. 13. Prior to the issuance of grading permits, the developer shall submit a comprehensive Wayfinding Plan for all temporary construction related off-site parking locations for senior center operations, designed to inform seniors about shuttle schedules, contact information, service frequencies, hours of operations, etc. Signage shall be clearly visible, easy to read, and strategically placed to ensure accessibility for all seniors.
- PIng. 14. Prior to the issuance of grading permits, the developer shall have entered into with the City an Affordable Housing/Disposition and Development Agreement ("AH/DDA"), and a Ground Lease and Regulatory Agreement substantially in the forms attached to the AH/DDA.

CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- | | | |
|--------------|----|---|
| Plng. | 1. | Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance. |
| Bldg. | 2. | Comply with the requirements of the adopted California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards, California Energy Code, and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa at the time of plan submittal or permit issuance. Requirements for accessibility to sites, facilities, buildings and elements by individuals with disability shall comply with chapter 11B of the California Building Code. A change of occupancy shall require compliance with the Disabled access requirements of chapter 11B of the California Building Code. |
| Bldg. | 3. | Plans shall be prepared under the supervision of a registered California Architect or Engineer. Plan shall be stamped and signed by the registered California Architect or Engineer. |
| Fire | 4. | Comply with the requirements of the 2022 California Fire Code, including the reference standards, as adopted and amended by Costa Mesa Fire & Rescue. |
| Bus.
Lic. | 5. | All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained. |
| | 6. | Business license shall be obtained prior to the initiation of the business. |

PRIOR TO ISSUANCE OF A BUILDING PERMIT

- | | | |
|-------|----|---|
| Plng. | 1. | Prior to issuance of building permits, the applicant shall contact the US Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan. |
| | 2. | The conditions of approval and ordinance or code provisions of the Master Plan shall be blueprinted on the face of the site plan as part of the plan check submittal package. |
| Trans | 3. | The applicant shall submit a Traffic Impact Fee to the Transportation Division prior to issuance of building permits to fulfill mitigation of off-site traffic impacts. The fee is required in an amount determined by the Transportation Division pursuant to the prevailing schedule of charges adopted by the City Council. The fee is calculated based on the average daily trip generation rate of 3.24 trip ends per dwelling unit for the proposed project. At the current rate, the estimated Traffic Impact Fee is |

\$50,525. NOTE: The fee will be recalculated at the time of issuance of building permits and based upon any changes in the prevailing schedule of charges adopted by the City Council and in effect at that time.

4. Comply with the requirements of the latest edition of the California Building Code, California Residential Code, California Electrical Code, California Mechanical Code , California Plumbing Code , California Green Building Standards Code and California Energy Code (or the applicable adopted California Building Code, California Residential Code California Electrical Code, California Mechanical Code California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa.
- Plng. 5. Two (2) sets of detailed landscape and irrigation plans, which meet the requirements set forth in Costa Mesa Municipal Code Sections 13-101 through 13-108, shall be required as part of the project plan check review and approval process. Plans shall be forwarded to the Planning Division for final approval prior to issuance of building permits.
6. Two (2) sets of landscape and irrigation plans, approved by the Planning Division, shall be attached to two of the final building plan sets.
7. Existing mature trees shall be retained wherever possible. Should it be necessary to remove existing trees, the applicant shall submit a written request and justification to the Planning Division. A report from a California licensed arborist may be required as part of the justification. If possible, replacement trees shall be of a size consistent with trees to be removed and required on a 1:1 basis. This requirement shall be completed under the direction of the Planning Division.
8. Subject to exceptions to allow for ADA paths of travel or other specific purposes identified by the applicant's landscape architect, all landscaped areas shall be separated from paved vehicular areas by 6" high continuous Portland Cement Concrete curbing.
9. The landscaping of this project shall comply with the City's landscaping requirements and any applicable guidelines (i.e. Water Efficient Landscape Guidelines). The final landscape plan shall meet tree count, tree selection, shrub count, groundcover and turf requirements per the City's Zoning Code.
10. Prior to issuance of building permits, a final landscape plan indicating the landscape palette and the design/material of paved areas shall be submitted for review and approval by the Planning Division. The driveway entrances shall also be enhanced with pervious pavers, colored concrete, or other treatment to the satisfaction of the Development Services Director.
11. Concrete wheel stops shall be installed 2' from the front edge of open parking spaces, or where applicable, landscape planters shall be increased 2' in depth to allow curbing to serve as a wheel stop.
12. Prior to final inspection or Certificate of Occupancy (C of O), the owner

shall provide proof of a recorded agreement between Jamboree Housing Corporation and City of Costa Mesa for reciprocal access and shared parking. The agreement shall provide for a combined total of 133 parking spaces. The agreement shall require that shared parking spaces are maintained free and clear of any obstructions. The applicant shall prepare and submit the agreement for approval to the Development Services Director and the City Attorney's Office. The Development Services Director is authorized to approve modifications to the shared parking agreement, including but not limited to authorizing the use of other shared parking sites, if he/she finds that the modification is in substantial conformance with the intent of this condition.

13. The material for the shared driveway shall be permeable interlocking pavers.
14. The applicant shall provide for a bicycle rack on the property, based on locational and capacity approval from Planning and Transportation Services, to allow for parking credit of one standard parking space. A greater amount of bicycle racks can be provided upon approval of the Planning Division.
15. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts are permitted. This condition relates to visually prominent features of scuppers or downspouts that not only detract from the architecture but may be spilling water from overhead without an integrated gutter system which would typically channel the rainwater from the scupper/downspout to the ground. An integrated downspout/gutter system which is painted to match the building would comply with the condition. This condition shall be completed under the direction of the Planning Division.
16. Prior to the issuance of Building Permits, the Applicant shall submit a Lighting Plan and Photometric Study for the approval of the City's Development Services Department. The Lighting Plan shall demonstrate compliance with the following: (a) Lighting design and layout shall limit spill light to no more than 0.5-foot candle at the property line of the surrounding neighbors, consistent with the level of lighting that is deemed necessary for safety and security purposes on site; and (b) Glare shields may be required for select light standards.
17. Applicant shall secure the premises with appropriate security lighting and employee inspection of adjacent areas under which applicant has control, to prevent trash, graffiti and littering. Any lighting under the control of applicant shall be directed in such a manner so as not to unreasonable interfere with the quiet enjoyment of nearby residences. Applicant shall further provide adequate lighting above the entrance to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premise.
18. The applicant shall work with any utility agencies' right-of-way areas and/or easements related to any overhead power lines, and receive clearance prior to issuance of building permits.

19. Trash facilities shall be screened from view, and designed and located appropriately to minimize potential noise and odor impacts to residential areas either within the garages or within the side yard areas (behind fences).
 20. All on-site utility services shall be installed underground or on the roof (e.g., satellite dishes), in which case such utility services shall be obscured from view.
 21. On-site lighting shall be provided in all parking areas, vehicular access ways, and along major walkways. The lighting shall be directed onto driveways and walkways within the project and away from dwelling units and adjacent properties to minimize light and glare impacts and shall be of a type approved by the Development Services Director.
 22. The parking area and pedestrian paths shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the site.
 23. Transformers, backflow preventers, and any other approved above-ground utility improvement shall be located outside of the required street setback area and shall be screened from view, under direction of Planning staff. Any deviation from this requirement shall be subject to review and approval of the Development Services Director.
 24. Installation of all new utility meters shall be performed in a manner so as to obscure the installation from view from any place on or off the property. The installation shall be in a manner acceptable to the public utility and shall be in the form of a vault, wall cabinet, or wall box under the direction of the Planning Division.
 25. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.
 26. The applicant shall maintain free of litter all areas of the premises under which applicant has control, including any use of off-site valet and shuttle parking lots.
 27. Truck Deliveries shall not occur anytime between the hours of 8:00 p. m. and 7:00 a.m; provided that special deliveries or staging (e.g., import/export) will occur prior to 7:00 a.m. to avoid disruptions in traffic.
 28. The applicant shall submit a detailed block wall plan for review. The location and heights of block walls shall comply with Code requirements, as well as any visibility standards for traffic safety related to ingress and egress.
 29. Prior to issuance of building permits, the Developer shall pay a park impact fee or dedicate parkland to meet the demands of the proposed development.
 30. Prior to issuance of a building permit, the City's Building and Fire Departments shall review the proposed development plans to determine compliance with all building, safety, and fire codes, and to ensure safety, suitable occupancy, and the necessary occupant ingress and egress
- Fire

PRIOR TO FINAL INSPECTION/OCCUPANCY

- Plng. 1. The applicant shall contact the Planning Division to arrange Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
2. Prior to final inspection or Certificate of Occupancy (C of O) the applicant shall provide a scaled and dimensioned digital site plan(s) for the project site, on either a CD or thumb drive, to the Planning Division. All site plans shall include an accurate and precise drawing of all building footprints and property line locations for the entire project site. All buildings shall be annotated with its corresponding address and suites if applicable.
3. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.
4. Prior to final building inspection, a bicycle rack shall be installed in a location such that it is functional, accessible and visible to the user.
5. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy, and utility releases will not be granted until all such licenses have been obtained.
- Trans 6. Prior to final inspection or Certificate of Occupancy (C of O) the applicant shall submit a detailed plan to Public Works restricting left turns into the development, by extending the existing median on West 19th Street 10 feet to the east.
- Trans 7. All parking spaces shall conform with the City of Costa Mesa Parking Design Standards unless otherwise approved.
- Plng. 8. The applicant shall submit an internal sign plan that ensures compatibility between the residential development and the existing Senior Center site.

TENTATIVE PARCEL MAP

- Plng. 1. Unless determined otherwise by the Economic and Development Service Director or designee, building and grading permits shall not be issued until proof that a final parcel map has been recorded with the County of Orange.
2. The applicant shall show proof of compliance with all applicable conditions of approval prior to recordation of the final map. This condition shall be completed under the direction of the Planning Staff.
- Eng. 3. The Parcel shall be developed in full compliance with the State Map Act and the City of Costa Mesa Municipal Code (C.M.M.C.), except as authorized by the Costa Mesa City Council and/or Planning Commission. The attention of the Subdivider and his engineer is directed to Section 13-208 through 13-261 inclusive, of the Municipal Code.
4. Fulfill City of Costa Mesa Drainage Ordinance No. 06-19 requirements prior to approval of Final Tract Map.
5. The Subdivider's engineers shall furnish the Engineering Division a storm

runoff study to the City of Costa Mesa showing existing and proposed facilities and the method of draining this area and tributary areas without exceeding the capacity of any street or drainage facility on-site or off-site. This study to be furnished with the first submittal of the Final Parcel Map. Unless otherwise authorized by the City, cross lot drainage shall not occur.

6. In order to comply with the latest DAMP, the proposed Project shall prepare a Water Quality Management Plan conforming to the Current National Pollution Discharge Elimination System (NPDES) and the Model WQMP, prepared by a Licensed Civil Engineer or Environmental Engineer, which shall be submitted to the City of Costa Mesa Engineering Divisions for review and approval. A WQMP (Priority or Non-Priority) shall be maintained and updated as needed to satisfy the requirements of the adopted NPDES program. The plan shall ensure that the existing water quality measures for all improved phases of the project are adhered to. Location of BMPs shall not be within the public right-of-way.
7. As approved by the City Engineer, the maintenance of the private on-site drainage facilities, BMPs, parkway culverts and other common areas shall be transferred to the lessee and said lessee shall indemnify and hold harmless the City of Costa Mesa for any liability arising out of or in any way associated with the connection of the private drainage system with the City's drainage system and shall execute and deliver to the City of Costa Mesa the standard (indemnity) Hold Harmless Agreement required for such conditions prior to issuance of permits.
8. Sewer improvements shall meet the approval of the Costa Mesa Sanitary District; call (949) 631-1731 for information. Water system improvements shall meet the approval of Mesa Water District; call (949) 631-1200 for information.
9. Prior to recordation of a Final Parcel Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Subarticle 12, Section 7-9-337 of the Orange County Subdivision Code.
10. Survey monuments shall be preserved and referenced before construction and replaced after construction, pursuant to Section 8771 of the Business and Profession Code.
11. The elevations shown on all plans shall be on Orange County benchmark datum.
12. Prior to recordation of a Final Parcel Map, the subdivider shall submit required cash deposit or surety bond to guarantee monumentation. Deposit amount to be determined by the City Engineer.
13. The Subdivider shall conduct soil investigations and provide the results to the City of Costa Mesa Engineering and Building Divisions pursuant to Ordinance 97-11.
14. Prior to occupancy, the surveyor/engineer shall submit to the City Engineer a Digital Graphic File, reproducible mylar of the recorded Parcel

Map, and approved off-site plan and nine copies of the recorded Parcel Map.

15. The Final Parcel Map shall be submitted to the Engineering Division for checking. Map check fee shall be paid per C.M.M.C. Section 13-231.3.
16. A current copy of title and preliminary title shall be submitted to the Engineering Division with the first submittal of the Final Parcel Map.
17. Obtain a permit from the City of Costa Mesa, Engineering Division, at the time of development and then remove any existing driveways and/or curb depressions that will not be used and replace with full height curb, sidewalk and landscape per City of Costa Mesa Standard Drawings and Streetscape and Median Development Standards.
18. Obtain a permit from the City of Costa Mesa, Engineering Division, at the time of development and then modify landscaped median located in West 19th Street as shown on the Offsite Plan. Location and dimensions are subject to the approval of the Transportation Services Manager.
19. Obtain a permit from the City of Costa Mesa, Engineering Division, at the time of development and then construct P.C.C. driveway approach per City of Costa Mesa Standards as shown on the Offsite Plan. Location and dimensions are subject to the approval of the Transportation Services Manager.
20. Submit for approval to the City of Costa Mesa, Engineering Division, Street Improvement and Storm Drain Plans, that show Sewer and Water Improvements, prepared by a Civil Engineer.
21. Prior to recordation of a Final Parcel Map, the surveyor/engineer preparing the map shall submit to the County Surveyor a digital-graphics file of said map in a manner described in Sub article 12, Section 7-9-337 of the Orange County Subdivision Code.

SPECIAL DISTRICT REQUIREMENTS

- | | | |
|-------|----|--|
| AQMD | 1. | Prior to the Building Division (AQMD) issuing a demolition permit, contact South Coast Air Quality Management District located at:
21865 Copley Dr
Diamond Bar, CA 91765-4178
Tel: 909-396-2000
OR
Visit their web site:
http://www.costamesaca.gov/modules/showdocument.aspx?documentid=23381
The Building Division will not issue a demolition permit until an identification number is provided by AQMD. |
| Sani. | 2. | It is recommended that the developer contact the Costa Mesa Sanitary District at (949) 645-8400 for current district requirements. |
| Water | 3. | Applicant is reminded that additional conditions of development may be imposed by Mesa Consolidated Water District (949) 631-1200 and/or other serving utilities. Subject to approval by the board of directors, Mesa Consolidated Water District may require payment of a developer impact |

fee prior to installation of water service or construction of required master plan facilities.

Customer shall contact the Mesa Water District – Engineering Desk and submit an application and plans for project review. Customer must obtain a letter of approval and a letter of project completion from Mesa Water District.

- School 4. Pay applicable Newport Mesa Unified School District fees to the Building Division prior to issuance of building permits.
- CDFA 5. Comply with the requirements of the California Department of Food and Agriculture (CDFA) to determine if red imported fire ants exist on the property prior to any soil movement or excavation. Call CDFA at 1-888-4FIREANT for information.

EXHIBIT C

**AFFORDABLE HOUSING /
DISPOSITION AND DEVELOPMENT AGREEMENT**

by and between

**CITY OF COSTA MESA
a California municipal corporation**

and

**JHC-ACQUISITIONS LLC,
a California limited liability company**

an affiliate of

**JAMBOREE HOUSING CORPORATION,
a California nonprofit public benefit corporation**

TABLE OF CONTENTS

	<u>Page</u>
1. SUBJECT OF AGREEMENT	1
1.1 Purpose of Agreement.....	1
1.2 The Site	1
1.3 Parties to the Agreement.....	1
1.3.1 The City	1
1.3.2 The Developer.....	2
1.4 Definitions.....	2
1.5 Prohibition Against Change in Ownership, Management and Control of Developer and Prohibition Against Transfer of the Site.....	7
1.6 Representations by Developer	9
1.7 Representations by City	10
1.8 Covenants of City	12
1.9 Risk of Physical Loss.....	13
1.10 Condemnation.....	13
2. FINANCING THE PROJECT; DISPOSITION OF THE SITE.....	13
2.1 Developer’s Financing Plan.....	13
2.1.1 [Intentionally Omitted]	13
2.1.2 Application to TCAC.....	13
2.1.3 Project Budget.....	14
2.1.4 Developer Submittals.....	15
2.2 Disposition of Site.....	15
2.2.1 Ground Lease of Site	15
2.2.2 Escrow.....	15
2.2.3 Condition of Title; Developer Title Insurance.....	16
2.2.4 Due Diligence Review; Physical and Environmental Condition of Site; “As-Is” Sale.....	17
2.2.5 Ground Lease; Possession.....	20
2.2.6 Disposition Conditions.....	21
2.2.7 Developer Acquisition Conditions.....	22
2.2.8 Waivers	23
2.2.9 Failure to Meet Closing Conditions; Termination	23
2.2.10 City’s Delivery of Documents and Funds to Escrow.....	24
2.2.11 Developer’s Delivery of Documents and Funds to Escrow.....	24
2.2.12 Close of Escrow; Recording of Instruments; Disbursement of Funds.....	24
2.3 [Intentionally Omitted]	25
.....	2.4
Subordination.....	25
2.5 City to Pay No Broker’s Fees	25
.....	3.
DEVELOPMENT OF THE SITE.....	26
3.1 Scope of Development.....	26

	<u>Page</u>
3.2	Changes to Construction Plans26
3.3	Cost of Development26
3.4	Construction Contract; Construction Schedule.....27
3.5	Indemnity; Insurance Requirements27
3.6	Remedies for Defaults Re Insurance.....29
3.7	City and Other Governmental Agency Permits29
3.8	Rights of Access30
3.9	Local, State and Federal Laws30
3.10	Anti-Discrimination31
3.11	Taxes and Assessments31
3.12	Right of City to Satisfy Other Liens on the Site After Title Passes.....32
3.13	Release of Construction Covenants32
3.14	Limitation on Encumbrances, Including Mechanic’s Liens32
3.15	Holder Not Obligated to Construct Improvements.....33
3.16	Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure33
3.17	Failure of Holder to Complete Improvements34
3.18	Right of City to Cure Mortgage, Deed of Trust or Other Security Interest Default.....34
3.19	Hazardous Materials35
	3.19.1 Indemnity35
	3.19.2 Definitions.....35
3.20	Materiality.....36
4.	USE OF THE SITE.....36
4.1	Uses In Accordance with City Regulatory Agreement.....36
4.2	Nondiscrimination.....36
4.3	Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction37
4.4	Maintenance of the Site38
5.	DEFAULTS AND REMEDIES38
5.1	Defaults – General38
5.2	Legal Actions38
	5.2.1 Specific Performance38
	5.2.2 Institution of Legal Actions; Attorney’s Fees.....39
	5.2.3 Applicable Law39
	5.2.4 Acceptance of Service of Process39
5.3	Rights and Remedies Are Cumulative.....39
5.4	Inaction Not a Waiver of Default.....39
5.5	Termination by City.....39
5.6	City’s Option to Acquire Plans40
6.	GENERAL PROVISIONS40
6.1	Notices, Demands and Communications Between Parties40
6.2	Conflicts of Interest.....41

	<u>Page</u>
6.3	Enforced Delay; Extension of Times of Performance41
6.4	Non-Liability of Officials and Employees of City41
6.5	Interpretation; Entire Agreement, Waivers; Attachments41
6.6	Time of Essence42
6.7	Maintenance of Books and Records42
6.8	Right to Inspect42
6.9	Binding Effect of Agreement.....42
6.10	Severability42
6.11	Counterparts42
6.12	Amendments to this Agreement.....43
6.13	Submission of Documents to the City for Approval.....43
6.14	Consents by City Manager.....43
6.15	Limited Recourse Obligations43

ATTACHMENTS

ATTACHMENT 1	-	SITE MAP
ATTACHMENT 2	-	LEGAL DESCRIPTION
ATTACHMENT 3	-	SCOPE OF DEVELOPMENT
ATTACHMENT 4	-	SCHEDULE OF PERFORMANCE
ATTACHMENT 5	-	FORM OF CITY NOTE
ATTACHMENT 6		FORM OF CITY DEED OF TRUST
ATTACHMENT 7		FORM OF CITY REGULATORY AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS
ATTACHMENT 8	-	FORM OF RELEASE OF CONSTRUCTION COVENANTS
ATTACHMENT 9	-	PROJECT BUDGET
ATTACHMENT 10		FORM OF NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY
ATTACHMENT 11	-	FORM OF GROUND LEASE

AFFORDABLE HOUSING / DISPOSITION AND DEVELOPMENT AGREEMENT

This Affordable Housing/Disposition and Development Agreement (“**Agreement**” and sometimes referred to as the “**AH/DDA**”) is entered into as of _____, 2025 (“**Effective Date**”) by and between CITY OF COSTA MESA, a California municipal corporation (the “**City**”), and JHC-ACQUISITIONS LLC, a California limited liability company (the “**Developer**”). City and Developer (individually referred to herein as a “**Party**,” and collectively referred to herein as the “**Parties**”) hereby agree as follows:

1. SUBJECT OF AGREEMENT

1.1 Purpose of Agreement

The purpose of this Agreement is to assist in the financing and development of an up to seventy (70) unit senior affordable rental housing project on the “**Site**,” with sixty-nine (69) of such units to be restricted for rental to and occupancy by “**Eligible Tenants**” at an “**Affordable Rent**” (as those terms are hereinafter defined), and related improvements (collectively the “**Project**”).

As used herein, the term “**Unit**” refers to each of the up to sixty-nine (69) rental dwelling units on the Property, and the term “**Units**” refers to all of the rental dwelling units on the Property. Each Unit will be subject to the “**City Regulatory Agreement**” (as that term is hereinafter defined).

The development of the Site and the occupancy of the affordable rental housing project as developed for households of limited incomes, all as provided in this Agreement, are in the vital and best interests of the City of Costa Mesa and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements under which the Project has been undertaken.

1.2 The Site

The “**Site**” comprises approximately one and five-tenths (1.5) acres of that certain real property owned in fee by City and located at 695 W. 19th Street (APN 424-211-01) (the “**City Property**”). The City Property is improved with the Costa Mesa Senior Center and adjoining parking lot. The Site is a portion of the parking lot area of the City Property. The Site is depicted on the Site Map, which is attached hereto and incorporated herein as Attachment No. 1. At such time as the Site is established as a separate legal parcel, the legal description of the Site shall be inserted into Attachment No. 2, which is attached hereto and incorporated herein by this reference.

1.3 Parties to the Agreement

1.3.1 The City

City is the City of Costa Mesa, a California municipal corporation. The principal office of City is located at 77 Fair Drive, Costa Mesa, California 92626, or such other address as City shall hereafter designate in writing to Developer.

1.3.2 The Developer

Developer is JHC-Acquisitions LLC, a California limited liability company. The principal office and mailing address of Developer for purposes of this Agreement is 17701 Cowan Avenue, Suite 200, Irvine CA 92614.

By executing this Agreement, each person signing on behalf of Developer warrants and represents to City that Developer has the full power and authority to enter into this Agreement, that all authorizations required to make this Agreement binding upon Developer have been obtained, and that the person or persons executing this Agreement on behalf of Developer are fully authorized to do so.

Whenever the term “**Developer**” is used in this Agreement, such term shall include any and all nominees, assignees, or successors in interest as herein provided.

1.4 Definitions

“**30% Low Income Household**” shall mean those households whose household income does not exceed thirty percent (30%) of the Orange County Median Income, as determined in accordance with Section 42(g) of the IRC, as published from time to time by TCAC.

“**Affiliate**” means any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the subject entity which, if the subject entity is a partnership or limited liability company, shall include each of the constituent members or partners, respectively thereof. The term “control” as used in the immediately preceding sentence, means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, of more than fifty percent (50%) of the voting rights attributable to the shares of the controlled corporation, and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

“**Affordable Rent**” shall mean the amount of monthly rent, including a reasonable utility allowance, that does not exceed the maximum allowable rent to be charged by Developer and paid by 30% Low Income Households or Low Income Households, as the case may be, occupying the Units as determined in accordance with Section 42(g)(2) of the IRC, and as published from time to time by TCAC.

“**Annual Financial Statement**” shall mean the financial statements prepared by Developer for each calendar year, including a balance sheet, income statement, statement of retained earnings, statement of cash flow, and footnotes thereto, prepared in accordance with generally accepted accounting principles consistently applied, as audited by an independent certified public accountant.

“**Approved Title Exceptions**” shall have the meaning ascribed in Section 2.3.3.a hereof.

“**City Deed of Trust**” shall mean a leasehold deed of trust with assignment of rents to secure the City Note, substantially in the form attached hereto and incorporated herein as

Attachment No. 6. The City Deed of Trust shall be recorded against Developer's leasehold interest in the Site.

"City Easement Agreement" shall mean an easement agreement to be executed and recorded against the Developer's leasehold interest in the Premises in favor of City and for the benefit of City and City's guests, invitees, vendors, employees and service personnel of the Costa Mesa Senior Center, which will provide (i) non-exclusive access rights over the driveway and drive aisles to be constructed as part of the Project that will provide ingress and egress to and from the public right-of-way to the Costa Mesa Senior Center, and (ii) non-exclusive rights to park in the uncovered surface parking spaces to be constructed as part of the Project and on the ground floor of the affordable housing development to be constructed as part of the Project, and for utilities and drainage, all pursuant to the terms and conditions set forth in the Easement Agreement.

"City Loan" shall mean the financial assistance to be provided by City to Developer in an amount up to Seven Hundred Thousand Dollars (\$700,000), in the form of deferred permit fees and development impact fees, to assist Developer with the costs Developer incurs to construct the Project.

"City Ground Lease" shall mean a ground lease substantially in the form attached hereto and incorporated herein as Attachment No. 11.

"City Manager" shall mean the individual duly appointed to the position of City Manager of the City, or his or her authorized designee. Whenever an administrative action is required by City to implement the terms of this Agreement, the City Manager, or his or her authorized designee, shall have authority to act on behalf of City, except with respect to matters reserved for City Council determination.

"City Note" shall mean a promissory note, substantially in the form attached hereto and incorporated herein as Attachment No. 5, in favor of City, evidencing the City Loan.

"City Regulatory Agreement" shall mean a regulatory agreement and declaration of covenants and restrictions, substantially in the form attached hereto and incorporated herein as Attachment No. 7. The City Regulatory Agreement shall be recorded against the Site, upon establishment of the Site as a separate legal parcel prior to the development of the Project.

"City Title Policy" shall have the meaning ascribed in Section 2.3 hereof.

"Close of Escrow" or **"Closing Date"** shall mean the date set forth in Section 2.2.2.c hereof, on which all of the following occur: (i) Escrow closes and Developer or an Affiliate of Developer obtains a leasehold interest in the Site, (ii) the close of the Construction Loan and any other funding obtained by Developer to construct the Project on the Site; and (iii) Developer's receipt of its first tranche of Tax Credit equity from the Qualified Tax Credit Investor.

"Closing Conditions" shall mean collectively the City Disposition Conditions set forth in Section 2.2.6 hereof and Developer Acquisition Conditions set forth in Section 2.2.7 hereof.

“**Construction Lender**” shall mean the first trust deed lender that provides the Construction Loan to Developer. The Construction Lender may or may not also be the Take-Out Lender.

“**Construction Loan**” shall mean the construction loan for the Project, currently estimated to be in the approximate amount of [Thirty-Four Million Five Hundred Fifty Dollars (\$34,550,000)], to be provided by the Construction Lender.

“**Days**” shall mean calendar days and the statement of any time period herein shall be calendar days, and not business days, unless otherwise specified. “**Business days**” (whether or not such term is capitalized) shall mean any days on which City Hall for the City is open to the public.

“**Density Bonus Laws**” shall be the state density bonus law, California Government Code section 65915, *et seq.*, and the City density bonus ordinance, Costa Mesa Municipal Code section 13-153, *et seq.*, as those sections may be amended from time to time. If there is an irreconcilable contradiction in requirements or limits in the state or City density bonus laws, the state density bonus law shall control; provided, however, that the preceding clause is to be narrowly construed and to the greatest extent possible all provisions in the state and City density bonus laws shall be given operation and effect.

“**Developer Entities**” shall have the meaning ascribed in Section 3.5 hereof.

“**Disapproved Title Exceptions**” shall have the meaning ascribed in Section 2.3.3.a hereof.

“**Due Diligence Period**” shall have the meaning ascribed in Section 2.3.4.a hereof.

“**Effective Date**” shall be the date set forth in the preamble.

“**Eligible Tenant**” shall mean a household which qualifies as (i) a Senior Household, and (ii) a 30% Low Income Household or a Low Income Household, as applicable pursuant to this Agreement and the City Regulatory Agreement.

“**Escrow**” shall mean the escrow established with Escrow Agent for City’s conveyance of a leasehold interest in the Site to Developer, and for the recording of the City Deed of Trust, City Regulatory Agreement, Memorandum of Ground Lease, Notice of Affordability Restrictions and any other recordable instruments against the Site.

“**Escrow Agent**” shall mean First American Title Insurance Company, or another escrow company mutually acceptable to City and Developer.

“**Force Majeure**” shall mean an enforced delay as described in Section 6.3 hereof.

“**Hazardous Materials**” shall have the meaning ascribed in Section 3.19.2 hereof.

“**IRC**” shall mean the United States Internal Revenue Code of 1986, as amended.

“**Jamboree**” shall mean Jamboree Housing Corporation, a California nonprofit public benefit corporation.

“**Low Income Household**” shall mean those households whose household income does not exceed sixty percent (60%) of the Orange County Median Income, as determined in accordance with Section 42(g) of the IRC, as published from time to time by TCAC.

“**Management Unit**” shall mean the one (1) unit in the Project that may be occupied by on-site management and staff.

“**Memorandum of Ground Lease**” shall mean a memorandum, substantially in the form attached as Exhibit B to the Ground Lease, to be recorded against the Site on the Closing Date.

“**Net Operating Income**” shall have the meaning ascribed in the City Note.

“**Notice of Affordability Restrictions**” shall mean a notice of affordability restrictions on Transfer of property substantially in the form attached hereto and incorporated herein as Attachment No. 10. The Notice of Affordability Restrictions shall be recorded against Developer’s leasehold interest in the Site.

“**Opening of Escrow**” shall have the meaning and be the date set forth in Section 2.3.2.a hereof.

“**Operating Income**” shall have the meaning ascribed in the City Note.

“**Orange County Median Income**” shall mean the median household income for the County of Orange, adjusted for family size, to be determined in accordance with Section 42(g) of the IRC, as published from time to time by TCAC.

“**Outside Closing Date**” shall mean the date that is One Hundred Ninety-Four (194) days after the first date on which Developer has received the allocation of 9% Tax Credits from TCAC for the Project.

“**Partnership Agreement**” shall mean the agreement that sets forth the terms of Developer’s limited partnership, as such agreement may be amended from time to time. The Partnership Agreement shall not conflict with the cash flow payments to City set forth in the City Note.

“**Permitted Exceptions**” shall have the meaning ascribed in Section 2.2.5.a hereof.

“**Project**” shall mean the construction on the Site of an affordable rental housing complex with not less than sixty (60) and up to seventy (70) units, with all but one (1) of such units restricted for rental to and occupancy by Eligible Tenants, related interior and exterior improvements and amenities appropriate and/or necessary for the development. The Project, including the Project improvements and amenities, is more particularly described in the Scope of Development attached hereto and incorporated herein as Attachment No. 3.

“Project Budget” shall mean, collectively, that certain budget, sources and uses of funds statement, and cash flow projection referred to in Section 2.1.3 of this Agreement and attached hereto as Attachment No. 9 which is incorporated herein by this reference, which budget, sources and uses of funds statement, and cash flow projection may not be materially changed without the prior approval of the City Manager, which approval shall not be unreasonably withheld (a material change is one or more change(s) that causes the total Project cost to increase or decrease by a cumulative amount of five percent (5%) or more from what is shown in Attachment No. 9); notwithstanding the foregoing, Developer shall promptly notify City, in writing, if Developer makes changes to the Project Budget which cause the total Project cost to increase or decrease by a cumulative amount of more than five percent (5%) from what is shown in Attachment No. 9.

“Project Entitlements” shall mean, collectively, any and all permits and approvals required in connection with the Project, and all conditions of approval issued in connection with any of the foregoing, and as any of such permits and/or approvals are amended from time to time. “Project Entitlements” shall not include grading permits and/or building permits.

“PTRs” or **“Preliminary Title Report(s)”** shall have the meaning ascribed in Section 2.3.3 hereof.

“Qualified Tax Credit Investor” shall mean a person or entity who (i) is an experienced limited partner and investor in multifamily housing developments receiving low income housing tax credits issued by the State of California or the United States federal government and (ii) has obtained or is contractually obligated to obtain a limited partnership or limited liability company membership interest in Developer whereby it will receive ninety percent (90%) or more of the Tax Credits generated in connection with the Project. City shall have the right to reasonable prior approval of any person or entity proposed by Developer as the Qualified Tax Credit Investor and of the terms and conditions of the Partnership Agreement. City shall diligently review any documents and/or proposals submitted by Developer with respect to the proposed Qualified Tax Credit Investor and Partnership Agreement.

“Release of Construction Covenants” shall mean a release of construction covenants, substantially in the form attached hereto and incorporated herein as Attachment No. 8.

“Released/Indemnified Parties” shall have the meaning ascribed in Section 3.5 hereof.

“Schedule of Performance” shall mean that certain schedule attached hereto and incorporated herein as Attachment No. 4.

“Senior Household” shall mean a household in which at least one member of the household is fifty-five (55) years of age or older and each other resident in the same dwelling unit is a “qualified permanent resident,” a “permitted health care resident,” (as those terms are defined in California Civil Code sections 51.3(b) or a person under 55 years of age whose occupancy is permitted under California Civil Code section 51.3(b)(2).

“Senior Loan” shall mean the Construction Loan and the Take-Out Loan and any Refinancing thereof.

“Site” shall have the meaning ascribed in Section 1.2 hereof.

“**Social Services Fee**” shall mean a minimum of [Two Thousand Two Hundred Three Dollars (\$2,203)] per Unit year, increasing annually by three percent (3%), which are to be set aside and used exclusively for the Social Services to be provided to the residents of the Project.

“**Take-Out Lender**” shall mean the lending institution that makes the Take-Out Loan. The Take-Out Lender may or may not also be the Construction Lender.

“**Take-Out Loan**” shall mean the permanent financing to be obtained by Developer in order to take out the Construction Loan.

“**Tax Credit Program**” shall mean the low-income housing tax credit program authorized pursuant to Internal Revenue Code section 42, California Health and Safety Code sections 50199.6-50199.19, Revenue and Taxation Code sections 17057.5, 17058, 23610.4, 23610.5, and applicable federal and State regulations.

“**Tax Credits**” shall mean the low income housing tax credits granted by TCAC for the Project pursuant to section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code, sections 17057.5, 17058, 23610.4, 23610.5 and California Health and Safety Code section 50199, *et seq.*

“**Tax Credit Regulatory Agreement**” shall mean that certain regulatory agreement to be recorded against the Site as a condition of the receipt by the Project of an allocation by TCAC of nine percent (9%) Tax Credits.

“**TCAC**” shall mean the California Tax Credit Allocation Committee.

“**Title Company**” shall mean First American Title Insurance Company, or another title company mutually acceptable to City and Developer.

“**Unit**” and “**Units**” shall have the meaning ascribed in Section 1.1 hereof.

1.5 Prohibition Against Change in Ownership, Management and Control of Developer and Prohibition Against Transfer of the Site

The qualifications and identity of Developer are of particular concern to City. It is because of these qualifications and identity that City intends to and has entered into this Agreement and the City Ground Lease with Developer. Consequently, no person, whether a voluntary or involuntary successor of Developer, shall acquire any rights or powers under this Agreement and/or the City Ground Lease nor shall Developer assign all or any part of this Agreement, the City Ground Lease, the Site, or the City Regulatory Agreement without the prior written approval of City. A voluntary or involuntary sale or transfer of any interest in Developer or the Site during the term of this Agreement shall be deemed to constitute an assignment or transfer for the purposes of this Section 1.5, and the written approval of City shall be required prior to effecting such an assignment or transfer. Any purported transfer, voluntarily or by operation of law, except with the prior written consent of City, shall render this Agreement absolutely null and void and shall confer no rights whatsoever upon any purported assignee or transferee. During the term of this Agreement and the City Regulatory Agreement, Developer shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any rights or duties herein, nor make any total or

partial sale, transfer, conveyance, or assignment of the whole or any part of the Site or any of the improvements thereon.

Notwithstanding any other provision of this Agreement to the contrary, City approval of an assignment of this Agreement or transfer of the Site, or any interest therein, shall not be required in connection with:

a. the conveyance or dedication of any portion of or interest in the Site to City, or other appropriate governmental agency, including public utilities, where the granting of such conveyance or easement permits or facilitates the development of the Project on the Site or is otherwise required to provide public access to the City's property and for parking;

b. any assignment of the limited partner interests in Developer to an Affiliate of Developer or Jamboree;

c. the transfer of the Project or any interest in the Site to Jamboree, an entity controlled by Jamboree, a nonprofit corporation in which a majority of the board of directors are members of the board of directors of Jamboree (any of the foregoing a "Jamboree Affiliate Entity"), or a partnership or limited liability company in which a Jamboree Affiliate Entity is a general partner or managing member;

d. any mortgage, deed of trust, or other form of conveyance required for any reasonable method of financing or refinancing the development of the Project on the Site that is contemplated in the Project Budget or has otherwise been approved, in writing, by the City Manager, including all direct and indirect costs related thereto, and any refinancing of such mortgage, deed of trust, or other form of conveyance provided such refinancing does not result in a loan to value ratio in excess of 80% or a debt coverage ratio of less than 1.15 to 1;

e. transfers of limited partnership interests resulting from the death or mental or physical incapacity of an individual;

f. transfers of limited partnership interests in trust for the benefit of a spouse, children, grandchildren, or other family member, or for charitable purposes;

g. the admission of the Qualified Tax Credit Investor to Developer as a limited partner thereof;

h. the transfer of limited partnership interests by the Qualified Tax Credit Investor to an entity that has the same general partner or managing member as the Qualified Tax Credit Investor or an Affiliate thereof;

i. the transfer of the Project or Site after expiration of the fifteen (15) year compliance period to a Jamboree Affiliate Entity or a partnership or limited liability company in which a Jamboree Affiliate Entity is a general partner or managing member pursuant to a purchase option or right of first refusal agreement entered into in accordance with Developer's limited partnership agreement;

Notwithstanding anything in this Section 1.5 to the contrary, (i) any transfer or assignment by Developer or any successor in interest to Developer not requiring approval by City shall be effective when made but shall not be deemed to relieve Developer or any successor party from the obligation to timely complete development of the Project unless and until the transferor and transferee execute and deliver to City an assignment and assumption agreement in a form and with content reasonably acceptable to City's legal counsel; and (ii) any transfer or assignment by Developer or any successor in interest to Developer requiring the approval by City pursuant to this Section 1.5 shall not be effective and shall not be deemed to relieve Developer or any successor party from the obligation to timely complete development of the Project unless and until the transferor and transferee execute and deliver to City an assignment and assumption agreement in a form and with content reasonably acceptable to City's legal counsel.

This Section 1.5 shall not be applicable to the leasing of individual Units to Eligible Tenants in accordance with this Agreement and the City Regulatory Agreement, and no assignment and assumption agreement shall be required in connection therewith.

1.6 Representations by Developer

Developer represents and warrants to City as follows:

a. Developer is duly established and in good standing under the laws of the State of California and has duly authorized, executed and delivered this Agreement and any and all other agreements and documents required to be executed and delivered by Developer in order to carry out, give effect to, and consummate the transactions contemplated by this Agreement. This Agreement is enforceable against Developer in accordance with its terms.

b. Developer does not have any contingent obligations or contractual agreements which will adversely affect the ability of Developer to carry out its obligations hereunder.

c. There is no action or proceeding pending or, to Developer's knowledge, threatened, for the dissolution or liquidation of Developer and there is no action or proceeding pending or, to Developer's knowledge, threatened by or against Developer which could affect the validity and enforceability of the terms of this Agreement, or adversely affect the ability of Developer to carry out its obligations hereunder.

d. The execution and delivery of this Agreement and all other documents to be executed by Developer pursuant to this Agreement will not constitute or result in any default or event that with notice or the lapse of time, or both, would be a default, breach, or violation of any other agreement, instrument, or arrangement by which Developer is bound.

e. The execution and delivery of this Agreement and all other documents to be executed by Developer pursuant to this Agreement and the consummation of the transactions contemplated herein will not violate any provision of or require any consent, authorization, or approval under any law or administrative regulation or any other order, award, judgment, writ, injunction or decree applicable to, or any governmental permit or license issued to Developer.

f. To Developer's knowledge, no representation, warranty, or covenant of Developer in this Agreement, or in any document or certificate furnished or to be furnished to City pursuant to this Agreement, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

g. All financial information delivered to City, including, without limitation, information relating to the financial condition of Developer, the Site, and the Project accurately represents such financial condition and has been prepared in accordance with accepted accounting principles consistently applied, unless otherwise noted in such information.

h. Developer reasonably believes that it has, and will as required by its obligations hereunder, dedicate, allocate and otherwise make available, sufficient financial and other resources to perform its obligations under this Agreement. Nothing contained herein shall be deemed to require Developer's partners to contribute additional capital to Developer.

Each of the representations and warranties contained in this Section 1.6 shall be restated as of the Close of Escrow. If Developer becomes aware of any fact or circumstance which would materially change or render materially incorrect, in whole or in part, any representation or warranty made by Developer under this Agreement, whether as of the date given or at any time thereafter through the Close of Escrow (whether or not the representation or warranty was based on knowledge as of a particular date), Developer will get prompt written notice of such changed fact or circumstance to City Manager and City may, as its sole remedy, terminate this Agreement by written notice to Developer. All representations or warranties herein shall survive the Close of Escrow. As used in this Section 1.6, the term "knowledge" or "known" shall mean the actual (not constructive or imputed) knowledge of the Executive Vice President and Chief Development Officer of Jamboree without any investigation or inquiry or duty of investigation or inquiry.

1.7 Representations by City

City represents and warrants to Developer as follows:

a. City is a California municipal corporation. The execution, performance, and delivery of this Agreement by City has been fully authorized by all requisite actions on the part of City. The persons who have executed this Agreement on behalf of City are authorized to bind City by their signatures hereto.

b. City does not, as far as is known to City, have any contingent obligations or contractual agreements which will adversely affect the ability of City to carry out its obligations hereunder.

c. There are no pending or, to City's knowledge, threatened, legal proceedings to which City is or may be made a party or to which it or any of its property is or may become subject, which will adversely affect the ability of City to carry out its obligations hereunder.

d. There is no action or proceeding pending or, to City's knowledge, threatened, looking toward the dissolution or liquidation of City and there is no action or

proceeding pending or, to City's knowledge, threatened by or against City which could affect the validity and enforceability of the terms of this Agreement, or adversely affect the ability of City to carry out its obligations hereunder.

e. City is not the subject of a bankruptcy proceeding.

f. To City's knowledge, the execution and delivery of this Agreement and all other documents to be executed by City pursuant to this Agreement will not constitute or result in any default or event that with notice or the lapse of time, or both, would be a default, breach, or violation of any other agreement, instrument, or arrangement by which City is bound.

g. To City's knowledge, the execution and delivery of this Agreement and all other documents to be executed by City pursuant to this Agreement and the consummation of the transactions contemplated herein will not violate any provision of or require any consent, authorization, or approval under any law or administrative regulation or any other order, award, judgment, writ, injunction or decree applicable to, or any governmental permit or license issued to City.

h. To City's knowledge, no representation, warranty, or covenant of City in this Agreement, or in any document or certificate furnished or to be furnished to Developer pursuant to this Agreement, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein not misleading.

i. City has not entered into and, to City's knowledge, there are no unrecorded purchase agreements, option agreements, rights of first refusal, conditional sales contracts or other title retention agreements which would prevent City from conveying a leasehold interest to the Site to Developer pursuant to the terms of the Agreement.

j. To City's knowledge, there is not currently any contemplated eminent domain proceeding that would affect the Site.

k. There is no pending or, to City's knowledge, threatened claims, allegations or lawsuits of any kind, whether for personal injury, property damage, landlord tenant disputes, property taxes or otherwise, that could materially and adversely affect the development or operation of the Project in accordance with this Agreement.

l. To the City's knowledge, no Hazardous Materials are or have heretofore been generated, treated, used, stored, disposed of or deposited in or otherwise exist in or on any portion of the Site, and no Hazardous Materials exist in or on the Site that would cause the Site to be unsuitable for the development or operation of the Project or that may support a claim for damages result in liability at common law or under applicable federal, state or local environmental statute, rule, regulation or ordinance and no underground storage tanks, pipelines or clarifiers are located on the Site.

m. To City's knowledge, there are no current zoning, building, environmental protection, clear air, pollution, fire or health code violations with respect to the Site or current violations pertaining to the use and occupancy of the Site.

n. City has not entered into and, to City's knowledge, there are no leases, occupancy agreements, licenses or other rights to occupy all or any portion of the Site.

o. To City's knowledge, there are no service, supply, management or other contracts or agreements affecting the Site that will survive the Close of Escrow, except for the Approved Title Exceptions.

Each representation and warranty contained in this Section 1.7 shall be restated as of the Close of Escrow. If City becomes aware of any fact or circumstance which would materially change or render materially incorrect, in whole or in part, any representation or warranty made by City under this Agreement, whether as of the date given or at any time thereafter through the Close of Escrow (whether or not the representation or warranty was based on knowledge as of a particular date), City will get prompt written notice of such changed fact or circumstance to Developer and Developer may, as its sole remedy, terminate this Agreement by written notice to City. All representations or warranties herein shall survive the Close of Escrow. As used in this Section 1.7, the term "knowledge" or "known" shall mean the actual (not constructive or imputed) knowledge of the City Manager, without any investigation or inquiry or duty of investigation or inquiry.

1.8 Covenants of City. From the effective date of this Agreement through the Close of Escrow, City covenants and agrees as follows:

a. City will not enter into a lease or license of the Site without the prior written approval of Developer, which shall not be unreasonably withheld or delayed.

b. City will continue to maintain in effect all policies of insurance currently maintained on the Site.

c. City will continue to maintain the Site in substantially the same manner as it has prior to the execution of this Agreement.

d. City shall not take any action or consent to any action which would cause a lien, obligation or encumbrance to be placed or imposed upon the Site, take or consent to any action affecting title to the Site or amend, modify or extend the term of any matter affecting title to the Site that results in any exception to title existing as of the Close of Escrow without the prior written consent of Developer.

e. City shall not construct or install or permit to be constructed or installed any improvements on the Site without the prior written approval of Developer, which shall not be unreasonably withheld or delayed.

f. City will provide prompt written notice to Developer of any casualty or condemnation affecting any portion of the Site, any matter relating to zoning changes, increase in tax assessments, notices of violations issued by any governmental authority with respect to the Site or any litigation, arbitration or other judicial or administrative proceeding which concerns or affects the Site of which the City obtains knowledge.

1.9 Risk of Physical Loss. Prior to City's delivery of possession of the Site to Developer at the Close of Escrow, the risk of loss or damage to the Site shall remain upon the City. If the Site suffers a material release of a Hazardous Material and such release is known to the City and not caused by the Developer, then City shall give written notice thereof to Developer promptly and in such event, or in the event Developer otherwise learns of such a release Developer shall have the right to terminate this Agreement upon written notice to the City given prior to the Close of Escrow.

1.10 Condemnation. In the event that, prior to the Close of Escrow, any governmental entity (other than City) shall commence any action of eminent domain or similar type proceedings to take any portion of the Site, City shall give prompt notice thereof to Developer and Developer or City, or both, shall have the option either to (i) elect not to lease the Site, in which event this Agreement shall terminate or (ii) complete the lease of the Site, in which case City shall be entitled to all proceeds of such taking against the Site; provided, however, that City agrees that it shall not settle or compromise the proceedings with respect to the Site without Developer's prior written consent, which will not be unreasonably withheld.

2. FINANCING THE PROJECT; DISPOSITION OF THE SITE

2.1 Developer's Financing Plan

Developer contemplates financing the development of the Project (other than permanent financing) with a combination of funds from the proceeds of the following: (i) the City Loan; (ii) 9% Tax Credits; (iii) the Construction Loan; and (iv) such other financing sources as may be obtained by Developer in accordance with the terms and conditions of this Agreement. City and Developer acknowledge and agree that Developer contemplates applying to City for a loan of HOME funds to assist Developer with the costs Developer incurs to develop the Project, and if approved, the repayment terms of such loan shall be substantially similar to the terms set forth in the City Note, except as may be required due to the source of the funding. Developer shall utilize all of such funding exclusively for development of the Project thereon, and not for any other purpose.

2.1.1 City Loan

City shall provide Developer with the City Loan to assist Developer in construction of the Project on the Site. The City Loan shall be in the form of a deferral of the permit fees and development impact fees that otherwise would be paid by Developer to City at issuance of building permits for the Project.

2.1.2 Application to TCAC

Developer shall prepare and submit a complete application to TCAC for an allocation of 9% Tax Credits as soon as reasonably practicable following the Effective Date.

Developer agrees to promptly submit to City all of the following documents at such time as the same are submitted by Developer to TCAC or other applicable body or when such documents are received by Developer, as applicable (any documents submitted prior to the Effective Date shall also have been submitted by Developer to City prior to the Effective Date):

a. A true and correct copy of the preliminary reservation letter from TCAC, a copy of the letter of intent from the Qualified Tax Credit Investor reflecting the total amount of the syndication proceeds and the timing of the payment of such proceeds.

b. A copy of the Placed in Service Application submitted to TCAC, including any cost certification submitted in connection therewith.

c. A complete copy of the regulatory agreement between TCAC and Developer. (As more fully discussed in Section 3.11 of the City Regulatory Agreement, should City be prevented by a final order of a court of competent jurisdiction, applicable and binding appellate opinion, or regulatory body with jurisdiction from enforcing, for any reason, the affordability restrictions set forth in this Agreement, City shall be a third-party beneficiary under said agreement and shall have full authority to enforce any breach or default by Developer thereunder in the same manner as though it were a breach or default under this Agreement.)

d. Complete copies of all correspondence or transmittals from TCAC or other jurisdiction (such as the Internal Revenue Service) containing any notification regarding the Project's noncompliance with applicable provisions of the Low-Income Housing Tax Credit Program.

In addition to the foregoing sources of funding for the Project, Developer, in consultation with City, shall diligently seek other sources of funding that are or may be available to help fund the Project.

In the event that Developer timely submits a complete application for Tax Credits as set forth above, but due to no fault of Developer does not receive an allocation of Tax Credits in that Round, Developer shall be permitted hereunder to submit an application for Tax Credits in the next successive round of applications for 9% Tax Credits following the first application submittal.

In the event that Developer timely submits a complete application for Tax Credits in the next Round as set forth above, but due to no fault of Developer does not receive an allocation of Tax Credits in the Second Round, Developer shall be permitted hereunder to submit an application for Tax Credits in the next successive round of applications for 9% Tax Credits.

In the event that Developer timely submits a complete application for Tax Credits in the following round as set forth above, but due to no fault of Developer does not receive an allocation of Tax Credits in the following Round, Developer shall be permitted hereunder to submit an application for Tax Credits in the next successive round of applications for 9% Tax Credits. Developer shall not be permitted to submit an application for Tax Credits after the last Round without City's consent in the event Developer does not receive an allocation in the last Round.

2.1.3 Project Budget

The development budget for the Project, anticipated sources and uses of funds for the development of the Project and the financial projections for the Project are set forth in the Project Budget (Attachment No. 9).

2.1.4 Developer Submittals

Promptly upon Developer's receipt of a notification of an award of any of the financing described in the Project Budget, Developer shall submit to the City Manager a copy of such award or evidence of such award.

Within five (5) days after the Effective Date, Developer shall provide to City a copy of Developer's most recently prepared Annual Financial Statement, and a copy of Developer's most recent internally prepared, unaudited financial statement, which shall include a balance sheet, income statement, statement of retained earnings, statement of cash flows, and footnotes thereto, prepared in accordance with generally accepted accounting principles consistently applied.

2.2 Disposition of Site

2.2.1 Ground Lease of Site

In accordance with and subject to the terms and conditions of this Agreement, City agrees to ground lease the Site to Developer, and Developer agrees to ground lease the Site from City pursuant to the terms of the Ground Lease.

2.2.2 Escrow

a. The ground lease of the Site shall take place through the Escrow with the Escrow Agent. The opening of the Escrow (the "**Opening of Escrow**") shall be deemed to be the date that a fully executed copy of this Agreement is delivered to the Escrow Agent, which shall occur not later than five (5) days after receipt by Developer of a preliminary reservation letter from TCAC for 9% Tax Credits. Developer shall have the obligation to deliver this Agreement to Escrow Agent, and Escrow Agent is instructed to notify City and Developer in writing of the date of the Opening of Escrow.

b. This Agreement, once deposited in Escrow, shall constitute the joint escrow instructions of City and Developer to Escrow Agent. Additionally, if Escrow Agent so requires, City and Developer agree to execute the form of escrow instructions that Escrow Agent customarily requires in real property escrows administered by it. In the event of any conflict or inconsistency between Escrow Agent's standard instructions and the provisions of this Agreement, the provisions of this Agreement shall supersede and be controlling.

c. Escrow shall close on the Closing Date, which shall be the date that is two (2) business days after each of the Closing Conditions set forth below has been satisfied or waived by the benefited Party or Parties; provided that, subject to extensions of time attributable to Force Majeure, Escrow shall close on or before the Outside Closing Date. If any Party reasonably determines that a Closing Condition for its benefit will not or cannot be satisfied prior to the Outside Closing Date, the Parties shall meet and confer in a good faith effort to determine whether such Closing Condition will be waived or modified, provided that each Party reserves the right to insist upon the full and timely satisfaction of all of the Closing Conditions for its benefit in its sole and absolute discretion. If such meet and confer process is unsuccessful in resolving the matter, any Party not then in Default may terminate this Agreement by delivery of written notice to the other Party or Parties and all funds and documents deposited with Escrow Agent shall be

promptly refunded or returned, as the case may be, by Escrow Agent to the depositing Party; provided, however, that if Escrow is so terminated, the Parties shall bear their own costs for Escrow, and termination of this Agreement shall be the sole and exclusive remedy at law or in equity by the Parties.

d. Developer shall be solely responsible for all costs and expenses related to the Survey (as defined below), documentary transfer taxes if any, the costs of extended title insurance coverage, any marginal cost to obtain title insurance coverage in excess of the value of Developer's leasehold estate in the Site, any title insurance endorsements (other than those obtained by City to "insure-over" a title exception), and fifty percent (50%) of the Escrow fees. City shall be responsible for the other fifty percent (50%) of the Escrow Fees, the costs of the standard leasehold owner's policy of title insurance in the amount of the value of Developer's leasehold estate, and any endorsements obtained by City to "insure-over" title exceptions. Escrow Agent is authorized on the Close of Escrow to pay and charge the Developer for any fees, charges, and costs payable under this paragraph as set forth on the settlement statements approved by the Parties. Before such payments are made, Escrow Agent shall notify City and Developer of the fees, charges, and costs necessary to close under the Escrow, by delivering draft settlement statements to the Parties for their mutual approval.

2.2.3 Condition of Title; Developer Title Insurance

a. No later than ten (10) business days after the Opening of Escrow, Developer shall promptly obtain a preliminary title report for the Site (the "PTR") from the Title Company and shall deliver a copy (or cause a copy to be delivered) to City together with copies of (or hyperlinks to) all of the title exception documents. Developer shall have until 5:00 p.m. Pacific Time on the date that is thirty (30) days after obtaining the PTR to review and approve or disapprove any title exceptions in the PTR, and notify City in writing of any such title exceptions to which Developer objects. Developer's failure to timely deliver such written notice of approved/disapproved title exceptions shall constitute Developer's disapproval of all title exceptions. Developer shall also cause an ALTA survey ("Survey") to be performed within thirty (30) days after Developer obtains the PTR and shall promptly deliver a copy of the Survey to City together with any objections (if any) to any title exceptions shown on the Survey within said thirty (30) day period. City shall have ten (10) business days after delivery by Developer to City of any written objection to a title exception to notify Developer in writing that City will: (a) remove one or more of the applicable exception(s) or cause them to be removed by the end of the Due Diligence Period (as defined below) or reasonably insured over by the Title Company (subject, however, to Developer's approval of the form of such insurance); or (b) decline to remove exceptions (or to cause them to be reasonably insured); provided, however, that City shall cause to be removed from title any deeds of trust, liens or other monetary encumbrances (other than non-delinquent real property taxes) at or prior to the Close of Escrow all of which shall constitute a "Disapproved Title Exception" (as hereinafter defined). Failure by City to so notify Developer shall be deemed to be City's election not to remove or otherwise address the applicable title exception(s). If City notifies Developer that City will remove (or cause to be removed) one or more of such title exceptions, then City shall do so on or before the Close of Escrow (unless this Agreement is terminated by Developer pursuant to this Agreement). If the City fails to so notify Developer as to any exception initially disapproved by Developer, or if City expressly declines in writing to remove or insure over title exceptions, then Developer shall have an additional ten (10) day period after the

expiration of City's 10-day response period or the date Developer receives City's timely response, whichever first occurs, to notify City in writing of Developer's election to either (a) terminate this Agreement or (b) accept title subject to the title exceptions that City has not agreed to remove. A failure of Developer to timely respond shall constitute Developer's election to terminate this Agreement. If Developer fails to so terminate this Agreement, Developer shall be deemed to have approved and accepted the applicable title exceptions (which, together with any title exceptions approved or created by Developer, are hereinafter referred to as the "**Approved Title Exceptions**"). As used herein, the term "**Disapproved Title Exceptions**" shall mean any title exceptions that the City has agreed to remove, cause to be removed, or cause to be "insured over."

b. In the event that the Title Company amends or updates the PTR after the Developer's approval of the initial PTR (any such update, a "**PTR Update**"), Developer shall furnish City with a written statement of approval or objections to any matter first raised in a PTR Update within five (5) business days after its receipt of such PTR Update and a copy of each new exception raised therein (each, a "**PTR Update Review Period**"). Should Developer fail to notify City in writing of any objections to any matter first disclosed in a PTR Update prior to the expiration of the PTR Update Review Period, as applicable, Developer shall be deemed to have approved such matters which shall then be considered Approved Title Exceptions. If, however, Developer objects to such new exception, then City shall have until 5:00 p.m. Pacific Time on the fifth (5th) business day after receipt of Developer's objections in which to notify Developer, in City's sole discretion, that City will either (i) remove one or more of the applicable exception(s) or cause them to be removed by the Close of Escrow or reasonably insured over by the Title Company (subject, however, to Developer's approval of the form of such insurance); or (b) decline to remove exceptions (or to cause them to be reasonably insured) (except that City shall remove all Disapproved Title Exceptions). If City fails to so notify Developer as to any exception, or declines to remove or insure over title exceptions, then Developer shall have until 5:00 p.m. Pacific Time on the fifth (5th) business after City's election (or deemed election) not to cure the disapproved exception in which to elect (A) to terminate this Agreement by written notice to City or (B) to waive in writing Developer's previous disapproval of (and thereby accept) any items that City does not elect to remove. If Developer gives City such written notice of termination, then this Agreement shall thereupon terminate without further action by the Parties. If Developer fails to make an election within the five (5) business day period referenced above, then Developer shall be deemed to have agreed to accept title subject to the matters first disclosed in the PTR Update and such matters shall be deemed to be Approved Title Exceptions hereunder.

2.2.4 Due Diligence Review; Physical and Environmental Condition of Site; "As-Is" Sale.

a. Due Diligence Period. No later than ten (10) business days after the Opening of Escrow, City shall deliver to Developer copies of all materials documents in the possession of City that pertain to the Site (the "**Documents**"). Upon the execution of this Agreement until the date that is sixty (60) days after the date on which the Documents have been delivered to Developer (the "**Due Diligence Period**"), Developer and its contractors and consultants who are designated in writing to City ("**Developer Designee's**") shall have the right to enter onto the Site for the purpose of performing the Survey, hazardous materials inspections, soils inspections and other physical inspections and investigations; provided, however, that: (a) Developer shall deliver copies of all final inspection reports to City; (b) no inspections or

investigations shall damage the Site or any improvements thereon or shall be “invasive” unless City has received a plan describing the scope of the inspection or investigation and the City Manager has approved such plan in writing, which approval shall not be unreasonably withheld; (c) Developer shall immediately repair all damage caused by or related to its inspections; and (d) neither Developer nor any of Developer’s Designees shall enter the Site unless Developer has provided City reasonable written evidence (such as insurance certificates and/or copies of policies) that the activities of Developer and the Developer Designees are covered by reasonable liability insurance naming City as an additional insured. Developer shall defend, indemnify and hold City harmless from and against any and all claims, liabilities, losses, damages, costs and expenses (including, without limitation, attorneys’ fees and cost) resulting from the entry onto the Site for such purposes or for purposes of performing the Survey; provided, however, such indemnification shall not extend to Developer’s mere discovery of pre-existing conditions on the Site or damage caused by the gross negligence or willful misconduct of the City or its agents or employees. If Developer disapproves of any condition of the Site or any Document, which approval or disapproval shall be in Developer’s sole and absolute discretion, then Developer may terminate this Agreement by written notice to City given on or prior to 5:00 P.M. Pacific Time on the last day of the Due Diligence Period that sets forth the basis for the disapproval (which basis shall be in Developer’s sole and absolute discretion and not subject to any approval by City).

b. “As-Is” Acquisition, “With All Faults”. Developer acknowledges and agrees that, except as expressly set forth herein, Developer is acquiring a leasehold interest in the Site in its “AS IS” physical and environmental condition, WITH ALL FAULTS, IF ANY, AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, WITHOUT ANY WARRANTY, EXPRESS, IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. Except as expressly set forth in this Agreement, including, without limitation, in Section 1.7 above, neither City nor any agents, representatives, officers, or employees of City have made any representations or warranties, direct or indirect, oral or written, express or implied, to Developer or any agents, representatives, or employees of Developer with respect to the physical and environmental condition of the Site, its fitness for any particular purpose, or its compliance with any laws, and Developer is not aware of and does not rely upon any such representation to any other party. Except as expressly set forth herein, including, without limitation, in Section 1.7 above, neither City nor any of its representatives is making or shall be deemed to have made any express or implied representation or warranty, of any kind or nature, as to (a) the physical and environmental status of the Site, (b) the Site’s compliance with applicable laws pertaining to its physical and environmental condition, (c) the accuracy or completeness of any information or data provided or to be provided by City with respect to the physical and environmental condition of the Site, or (d) any other matter relating to the physical and environmental condition of the Site.

c. Termination and Waiver. Developer acknowledges and agrees that in the event Developer does not approve of the condition of the Site under this Section 2.2.4, Developer’s sole right and remedy shall be to terminate this Agreement under and in accordance with Section 2.2.4.a (above). Consequently, subject to City’s representations and warranties in this Agreement, including, without limitation, in Section 1.7 above, Developer hereby waives any and all objections to or complaints regarding the Site, and its condition, including, but not limited to, federal, state or common law based actions and any private right of action under state and

federal law to which the Site is or may be subject, including, but not limited to, any federal and state and local laws pertaining to Hazardous Materials, physical characteristics and existing conditions, including, without limitation, structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and Hazardous Materials on, under, adjacent to or otherwise affecting the Site. Subject to City's representations and warranties in this Agreement, including, without limitation, in Section 1.7 above, Developer further hereby assumes the risk of changes in applicable laws and regulations relating to past, present and future environmental conditions on the Site and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Materials or other contaminants, may not have been revealed by its investigations.

d. Releases and Waivers. Except for (a) a breach by City of any representation, warranty or covenant contained in this Agreement, and (b) any "Property Condition Claims" (as defined below) to the extent caused by the gross negligence or willful misconduct of any of the "Released Parties" (as defined below), Developer and anyone claiming by, through or under Developer also hereby waives its right to recover from and fully and irrevocably releases City and its council members, board members, employees, officers, directors, representatives, agents, servants, attorneys, successors and assigns ("**Released Parties**") from any and all claims, responsibility and/or liability that it may now 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 defects, errors, omissions or other conditions, latent or otherwise, and the presence in the soil, air, structures and surface and subsurface waters of materials or substances that have been or may in the future be determined to be Hazardous Materials or otherwise toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Site under current or future federal, state and local laws regulations or guidelines), valuation, salability or utility of the Site, or its suitability for any purpose whatsoever (collectively, the "**Property Condition Claims**"), and (ii) any information furnished by the Released Parties under or in connection with this Agreement (other than the City's representations and warranties hereunder). With the exception of any claims excluded pursuant to clauses (a) and (b) above in this paragraph d, this release includes claims of which Developer is presently unaware or which Developer does not presently suspect to exist which, if known by Developer, would materially affect Developer's release to City. Developer specifically waives the provision of California Civil Code section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT 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 TO HIM OR HER, WOULD HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

In this connection and to the extent permitted by law, Developer hereby agrees, represents and warrants that Developer realizes and acknowledges that factual matters now unknown to it 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 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 with the exception of any claims excluded pursuant to clauses (a) and (b) above in this Section 2.2.4.d, Developer nevertheless hereby intends to release, discharge and acquit Released Parties from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which might in any way be included as a material portion of the consideration given to City by Developer in exchange for City's performance hereunder.

Developer hereby agrees that, if at any time after the Close of Escrow any third party or any governmental agency seeks to hold Developer responsible for the presence of, or any loss, cost or damage associated with, Hazardous Materials in, on, above or beneath the Site, or emanating therefrom, then with the exception of (x) a breach by City of any representation, warranty or covenant contained in this Agreement, and (y) any Property Condition Claims to the extent caused by the gross negligence or willful misconduct of any of the Released Parties, (I) Developer waives any rights it may have against City in connection therewith, including, but not limited to, any federal and state and local laws pertaining to Hazardous Materials, and (II) Developer agrees that it shall not (i) implead City, (ii) bring a contribution action or similar action against City, or (iii) attempt in any way to hold City responsible with respect to any such matter. The provisions of this Section shall survive the Close of Escrow.

City and Developer have each initialed this Section 2.2.4 to further indicate their awareness and acceptance of each and every provision hereof:

CITY'S INITIALS

DEVELOPER'S INITIALS

e. Environmental Indemnity. From or after the Close of Escrow, Developer shall indemnify, protect, defend and hold harmless City, and City's officials, officers, attorneys, employees, consultants, agents and representatives, from and against any and all claims, liabilities, suits, losses, costs, expenses and damages, including but not limited to attorneys' fees and costs, arising directly or indirectly out of any claim for loss or damage to any property, including the Site, injuries to or death of persons, or for the cost of cleaning up the Site, and removing Hazardous Materials or toxic substances, materials and waste therefrom, by reason of contamination or adverse effects on the environment, or by reason of any statutes, ordinances, orders, rules or regulations of any governmental entity or agency requiring the cleanup of any Hazardous Materials caused by or resulting from any Hazardous Material, or toxic substances or waste first released onto any portion of the Site after the Close of Escrow. For the avoidance of doubt, the environmental indemnity in this paragraph e shall not apply with respect to any Hazardous Materials or toxic substances, materials and/or waste therefrom that first came onto the Site, or were released onto the Site, prior to the Close of Escrow, except to the extent that such release of Hazardous Materials or toxic substances, or materials and/or waste therefrom were exacerbated or caused by Developer's activities during its occupancy of the Premises.

2.2.5 Ground Lease; Possession

a. Close of Escrow. At the Close of Escrow, the City shall convey a ground leasehold interest in the Site to Developer pursuant to the Ground Lease. Such conveyance

shall be subject to: (i) current real property taxes and assessments not yet due for the tax year during which the conveyance occurs, (ii) all Approved Title Exceptions, and (iii) the instruments required to be recorded pursuant to this Agreement, including the City Deed of Trust, City Regulatory Agreement, and Notice of Affordability Restrictions, Memorandum of Ground Lease and any such grants of easements for public egress, access and use of parking facilities on the Site as are provided for in any agreements between City and Developer (collectively, the “**Permitted Exceptions**”).

b. Possession of Site; Use and Occupancy of Units and Other Improvements. Possession of the Site shall be delivered by City to Developer upon the Close of Escrow as provided for in Agreement. Upon taking possession of the Site, Developer may commence the construction of the Project pursuant to this Agreement. Developer shall not permit the possession, use, or occupancy of any Units or other improvements on the Site, for Eligible Tenants or for any other persons or entities, unless and until Developer has obtained from City and any other governmental agency with jurisdiction over the Project and Site any and all necessary permits, including certificates of occupancy for the Units being sought by Developer to be used and occupied pursuant to this Agreement.

2.2.6 Disposition Conditions

Subject to City and Escrow Agent executing escrow instructions consistent with the requirements of this Agreement, City’s obligation to close Escrow on the Site shall be conditional and contingent upon the satisfaction, or waiver by City in its sole and absolute discretion, of each and all of the following conditions (collectively, the “**City Disposition Conditions**”):

a. Developer shall have delivered to Escrow Agent (i) City Deed of Trust, (ii) City Regulatory Agreement, (iii) Notice of Affordability Restrictions, and (iv) Memorandum of Ground Lease, all duly executed and acknowledged by Developer for recordation, and Escrow Agent shall have recorded, or shall record, each of the same.

b. Developer shall have obtained all of the Project Entitlements for the development of the Project on the Site in accordance with this Agreement.

c. Developer shall have processed through City a parcel map that established the Site as a separate legal parcel, subject to existing title exceptions and any easements to be granted by Developer by separate instrument for public egress, access and parking.

d. Developer has obtained permit ready status for grading and building for the Project on the Site.

e. Developer shall have executed and delivered to Escrow Agent the City Ground Lease and City Note.

f. Developer shall have submitted to the City Manager the evidence of insurance required pursuant to Section 3.5 of this Agreement.

g. Developer shall have delivered to the City Manager the financial statements and other documents required by Section 2.1.4 herein, and the City Manager shall have approved the same (such approval not to be unreasonably withheld or delayed).

h. Developer shall have obtained and delivered to the City Manager conditional financing commitment letters for all of the financing set forth in the Project Budget outlining the financial terms, conditions and requirements of an investment in or loan to the Developer's limited partnership in the forms required by TCAC pursuant to its tax credit application.

i. Developer has closed on the Construction Loan and all of the construction financing set forth in the Project Budget; or, concurrent with the Close of Escrow, Developer will close on the Construction Loan and all of the construction financing set forth in the Project Budget.

j. The Title Company shall be irrevocably committed to issue the City Title Policy at the Close of Escrow.

k. No administrative action/quasi-judicial proceeding or litigation has been filed or is pending or will be pending as of the Close of Escrow.

l. Each of Developer's representations and warranties contained in this Agreement are true and correct in all material respects as of the date made and as of the Close of Escrow.

m. Developer is not in material default of this Agreement.

2.2.7 Developer Acquisition Conditions

Subject to Developer and Escrow Agent executing escrow instructions consistent with the requirements of this Agreement, Developer's obligation to acquire a leasehold interest in the Site shall be conditional and contingent upon the satisfaction, or waiver by Developer in its sole and absolute discretion, of each and all of the following conditions (collectively, the "**Developer Acquisition Conditions**"):

a. City shall have delivered to Escrow Agent (i) Memorandum of Ground Lease; (ii) City Regulatory Agreement; and (iii) Notice of Affordability Restrictions, all duly executed and acknowledged by Developer for recordation, and Escrow Agent shall have recorded, or shall record, each of the same.

b. Developer shall have obtained all of the Project Entitlements for the development of the Project on the Site in accordance with this Agreement.

c. City shall have approved a parcel map establishing the Site as a separate legal parcel, subject to existing title exceptions and any easements to be granted by Developer by separate instrument for public egress, access and parking.

d. Developer has obtained permit ready status for grading and building for the Project on the Site.

e. City shall have executed and delivered to Escrow Agent the City Ground Lease.

f. The City Manager shall have approved Developer's evidence of insurance required pursuant to Section 3.5 of this Agreement (which approval shall not be unreasonably withheld, conditioned or delayed if Developer's insurance complies with said Section 3.5).

g. The City Manager shall have approved (such approval not to be unreasonably withheld, conditioned, or delayed) Developer's financial statements and other documents required by Section 2.1.4 herein.

h. Developer shall have obtained conditional financing commitment letters for all of the financing set forth in the Project Budget outlining the financial terms, conditions and requirements of an investment in or loan to the Developer's limited partnership in the forms required by TCAC pursuant to its tax credit application.

i. Developer has closed on the Construction Loan and all of the construction financing set forth in the Project Budget; or, concurrent with the Close of Escrow, Developer will close on the Construction Loan and all of the construction financing set forth in the Project Budget.

j. The Title Company shall be irrevocably committed to issue to Developer on the Close of Escrow an ALTA owner's leasehold title policy consistent with the provisions in Section 2.3.3 hereof and subject only to the Permitted Exceptions.

k. No administrative action/quasi-judicial proceeding or litigation has been filed or is pending or will be pending as of the Close of Escrow.

l. City is not in material default of this Agreement.

m. Each of the City's representations and warranties contained in this Agreement are true and correct in all material respects as of the date made and as of the Close of Escrow.

n. No material change has occurred to the physical condition of the Site except as permitted by this Agreement.

2.2.8 Waivers

City may at any time or times, at its election, waive any of the City Disposition Conditions, but any such waiver shall be effective only if contained in a writing signed by City and delivered to Developer. Developer may at any time or times, at its election, waive any of the Developer Acquisition Conditions, but any such waiver shall be effective only if contained in a writing signed by Developer and delivered to City.

2.2.9 Failure to Meet Closing Conditions; Termination

In the event that each of the Closing Conditions is not fulfilled, or waived by City or Developer pursuant to Section 2.2.8, the other Party not in default under this Agreement may, at its option, terminate this Agreement, thereby releasing the Parties from further obligations hereunder. In the event this Agreement is terminated, all documents and funds delivered by Developer to City or the Escrow Agent shall be returned to Developer and all documents and funds delivered by City to Developer or the Escrow Agent shall be returned to City. Nothing in this paragraph shall be construed as releasing any Party from liability for any default of its obligations hereunder or breach of its representations and warranties under this Agreement occurring prior to the termination of this Agreement.

2.2.10 City's Delivery of Documents and Funds to Escrow. No later than 12:00 noon on the day that is two (2) business days before the anticipated Closing Date, City shall deliver to Escrow Agent the following:

- a. City Regulatory Agreement, duly executed and acknowledged for recordation.
- b. Notice of Affordability Restrictions, duly executed and acknowledged for recordation.
- c. Memorandum of Ground Lease, duly executed and acknowledged for recordation.
- d. Executed City Ground Lease.
- e. An executed certificate of non-foreign status in a form provided by the Escrow Agent and approved by City and Developer.
- f. Any and all other sums and documents required by Escrow Agent to carry out and close the Escrow pursuant to this Agreement, including City's portion for any title insurance or escrow fees.

2.2.11 Developer's Delivery of Documents and Funds to Escrow. No later than 12:00 noon on the day that is two (2) business days before the anticipated Closing Date (except as noted below), Developer shall deliver to Escrow Agent the following:

- a. City Regulatory Agreement, duly executed and acknowledged for recordation.
- b. City Deed of Trust, duly executed and acknowledged for recordation.
- c. Consent to Notice of Affordability Restrictions, duly executed and acknowledged for recordation.

- d. Memorandum of Ground Lease, duly executed and acknowledged for recordation.
- e. Executed City Note.
- f. Executed City Ground Lease.
- g. Executed City Easement Agreement.
- h. Executed deed of trust for the Construction Loan.
- i. Any and all other sums (which may be deposited on the Close of Escrow) and documents required by Escrow Agent to carry out and close the Escrow pursuant to this Agreement, including Developer's portion of any title insurance or escrow fees.

2.2.12 Close of Escrow; Recording of Instruments; Disbursement of Funds. On the Closing Date, and only after all of the Closing Conditions have been met or waived pursuant to this Agreement, Escrow Agent (or Title Company as the case may be) shall perform the following:

- a. Record the following instruments in the following order: (i) Memorandum of Ground Lease, (ii) City Easement Agreement, (iii) City Regulatory Agreement, (iv) City Deed of Trust, and (v) Notice of Affordability Restrictions.
- b. Deliver to the City Manager and Developer conformed copies of all recorded instruments identified in Sections 2.3.12.a above.
- c. Deliver to the City Manager the original executed City Note.
- d. Deliver to the City Manager the City Title Policy.
- e. Deliver to the Developer an ALTA owner's leasehold title policy consistent with the provisions of this Agreement and subject only to the Permitted Exceptions.
- f. Pro-rate and pay all taxes, escrow fees, recording costs, and other costs of closing the Escrow pursuant to this Agreement and in accordance with a closing statement that has been delivered by Escrow Agent (or Title Company as the case may be) and has been mutually agreed upon by the Parties prior to the Closing Date.
- g. Perform any other actions mutually agreed upon by the Parties that may be necessary or proper to Close the Escrow and commence the development of the Project on the Site.

2.3 City Title Insurance.

As one of the City Disposition Conditions, Developer shall pay for and City shall obtain from the Title Company standard lessor's policy of title insurance together with such endorsements as may be reasonably requested by City with liability in the amount of \$_____, showing

Developer's leasehold interest in the Site, and insuring the validity and priority (in accordance with this Agreement) of, respectively, the Memorandum of Ground Lease, the City Easement Agreement, City Regulatory Agreement, and Notice of Affordability Restrictions, and subject only to the Permitted Exceptions (the "**City Title Policy**"). Notwithstanding the foregoing, however, City shall be responsible for the cost of any endorsements and for the additional cost of extended coverage, if requested by City. In addition, Developer shall pay for and City shall obtain from the Title Company an ALTA lender's policy of title insurance together with such endorsements as may be reasonably requested by City with liability in the amount of the City Note insuring the validity and priority of the City Deed of Trust, and subject only to the Permitted Exceptions (the "**City Title Policy**"). Notwithstanding the foregoing, however, City shall be responsible for the cost of any endorsements and for the additional cost of extended coverage, if requested by City.

2.4 Subordination

City agrees to subordinate the City Deed of Trust to the deed of trust or other mortgage security instrument securing the Construction Loan and to the deed of trust or other mortgage security instrument securing the Take-Out Loan.

Further, subject to the requirements of this Agreement, City agrees to subordinate the City Regulatory Agreement and Notice of Affordability Restrictions to the deed of trust or other mortgage security instrument securing the Construction Loan and to the deed of trust or other mortgage security instrument securing the Take-Out Loan and any refinancing of the Take-Out Loan pursuant to a written subordination agreement approved by City's legal counsel (such approval not to be unreasonably withheld, conditioned or delayed) (the "**Subordination Agreement**"). The City Regulatory Agreement and Notice of Affordability Restrictions may only be subordinated to a deed of trust or other mortgage security instrument securing the Construction Loan or Take-Out Loan or refinancing of the Take-Out Loan, pursuant to this Agreement, if and only if the affordability covenants and related preservation thereof in Articles 1, 2 (other than the obligation in Section 2.1 to construct the Project), 3 (other than Sections 3.13 and 3.14), 12 and 13 of the City Regulatory Agreement have priority over any such deed of trust or other mortgage security instrument and shall remain binding and run with the land for the "Term" of the City Regulatory Agreement in the event of foreclosure or deed in lieu of foreclosure or any other action taken pursuant to such deed of trust or other mortgage security instrument. The Subordination Agreement shall expressly provide for all of the matters described in this Section 2.4.

2.5 City to Pay No Broker's Fees

City hereby represents and warrants that no third party broker has acted on its behalf with the ground lease of the Site, and further represents and warrants that it has no knowledge either constructive or actual whether Developer has engaged the services of a third party broker for the ground lease of the Site. In addition to any other indemnities provided in this Agreement, Developer and City shall indemnify, protect, defend and hold harmless the other and their respective officials, officers, directors, attorneys, employees, consultants, agents and representatives, from and against any and all claims, liabilities, suits, losses, costs, expenses and damages, including but not limited to attorneys' fees and costs, arising directly or indirectly out of any claims for loss or damages brought by any third party claiming a commission or any fee

whatsoever by acting on behalf of such party as a broker or agent in connection with the ground lease of the Site. The provisions of this Section shall survive the Close of Escrow.

2.6 Cost Savings Obligation

Subject to the requirements of TCAC and other lenders providing loans to the Project that have been approved by City, (such approval not to be unreasonably withheld, conditioned or delayed), Developer hereby agrees to provide and pay to City a “Cost Savings” payment for the Project in an amount to be determined based on the “Audit” (as those terms are described in subparagraph (a) below) to be conducted upon completion of construction of the Project.

(a) **Audit to Determine Cost Savings Amount.** The actual amount of Cost Savings to be paid to City shall be determined after the Audit, as hereafter described, and the amount of such Cost Savings shall be equal to the amount by which the total sources of permanent financing for the Project (which financing includes, but is not limited to, the City Loan, the Take-Out Loan, the equity contributed by the Qualified Tax Credit Investor, any upward adjusted equity payments, if any, made to the Developer by the Qualified Tax Credit Investor, and any other funding obtained for the Project (if applicable) (“**Permanent Financing**”) exceed the costs of development incurred for the Project (which costs include, but are not limited to, the hard and soft costs incurred by Developer to perform predevelopment activities and construct the Project, developer fees, capitalized reserves, and the amount spent to repay the principal balance of the Construction Loan to the principal balance of the Take-Out Loan) (“**Costs of Development**”). Within sixty (60) days following the completion of lease-up of the Project, Developer shall cause its certified public accountant(s) to perform a cost certification of the costs of development of the Project in accordance with the requirements of the Tax Credits and generally accepted accounting principles (“**GAAP**”) and generally accepted auditing standards (herein referred to as “**Audit**”). If the Audit determines that the Permanent Financing exceeds Developer’s total Costs of Development of the Project, such excess shall be considered the “**Cost Savings**” for the Project.

(b) **Portion of Cost Savings Payment as Payment of Principal on City Loan.** Subject to the requirements of TCAC and other lenders providing loans to the Project that have been approved by City (such approval not to be unreasonably withheld, conditioned or delayed), fifty percent (50%) of the Cost Savings for the Project, once determined by the Audit pursuant to Section 2.6(a) above and subject to subsection 2.6(c) below, shall be due and paid by Developer to City and allocated and credited as a principal payment on the City Loan, as and when paid. The remaining 50% of Cost Savings may be used to pay unpaid or deferred expenses, including any Deferred Developer Fee, or may otherwise be used to pay down principal owed on any other source of funding for the Project.

(c) **Timing of Payment of Cost Savings.** Fifty percent (50%) of the Cost Savings for the Project shall become due and payable by Developer to City upon the later of (i) sixty (60) days after receipt by Developer of the final Tax Credit equity, (ii) closing of the Take-Out Loan and (iii) completion of construction of the Project, as evidenced by City’s issuance of a Release of Construction Covenants.

3. DEVELOPMENT OF THE SITE

3.1 Scope of Development

a. Development Obligation. The Project shall be comprised of the construction of an affordable rental housing development containing not less than sixty (60) and up to seventy (70) apartment dwelling units (the “Units”), which includes one management unit, and shall include all of the onsite private amenities and improvements appropriate and/or necessary for the development, as described and set forth in the Project Entitlements and all public improvements required pursuant to the Project Entitlements, all in accordance with the Project Entitlements and any other approved plans and permits, and as set forth in this Agreement, the Scope of Development, and City Regulatory Agreement.

b. Parcel Map. As of the Effective Date, the Site comprises a portion of the City Property, and does not constitute a separate legal parcel. Prior to the Effective Date, Developer submitted an application for a parcel map that, if approved, will establish the Site as a separate legal parcel. Nothing in this paragraph does or shall be deemed to be a discretionary or ministerial approval by the City of a parcel map or any adjustment of the boundary lines of the City Property, which may only be approved in accordance with the procedures and standards under applicable laws.

3.2 Changes to Construction Plans

If Developer desires to make any material changes in the construction plans for the Project after the approval thereof by City, Developer shall submit the proposed changes to City for approval, pursuant to Costa Mesa Municipal Code section 13-56(b). Any proposed changes that are treated as minor amendments under the Costa Mesa Municipal Code and the requirements of this Agreement, including, without limitation, the Scope of Development, shall be considered at the planning division level. City shall approve or disapprove any such change within ten (10) business days of Developer’s written request. Failure of City to respond to any such request within said ten (10) business day period shall be deemed to constitute approval of the change. Major amendments shall be considered by the Zoning Administrator pursuant to Costa Mesa Municipal Code section 13-56(b).

3.3 Cost of Development

With the exception of the financial assistance set forth in the City Loan and included in the City Note, and any other financial assistance approved by the City Council in its sole and absolute discretion following the Effective Date, all costs for planning, designing, and constructing the Project, including but not limited to all development and building fees, Site remediation (if any), grading and preparation costs, off-site and on-site construction and improvement costs shall be borne exclusively by Developer. Developer shall also bear all costs related to discharging the duties of Developer set forth in this Agreement.

3.4 Construction Contract; Construction Schedule

Prior to commencing construction of the Project, Developer shall provide to City a copy of a stipulated sum-based construction contract or guaranteed maximum price construction contract

between Developer and its general contractor for all of the improvements required to be constructed by Developer hereunder, certified by Developer to be a true and correct copy thereof. The construction contract or design-build contract for the Project shall be competitively bid; unless the general contractor is an affiliate of the Developer, in which event the construction contract shall be guaranteed maximum price construction contract in compliance with TCAC Regulation 10327(c)(1).

Developer shall obtain building permits, and commence and complete construction of the Project by the respective times established therefor in the Schedule of Performance.

3.5 Indemnity; Insurance Requirements

a. Developer shall indemnify, defend, with attorneys (i) selected by City, or (ii) at City's election, selected by Developer and reasonably acceptable to the City, and hold harmless City and City's officials, officers, members, employees, agents, and representatives, and all entities, boards, commissions, and bodies related to any of them (all of the foregoing, collectively, the "**Released/Indemnified Parties**") from all claims or suits for, and damages to, property and injuries to persons, including accidental death (including expert witness fees, attorney's fees, and costs), which may be caused by any of the activities of Developer or any of Developer's affiliates, successors, assigns, and successors-in-interest in and to this Agreement, the Site and the Project (collectively, the "**Developer Entities**") under this Agreement.

b. Commencing on the Closing Date and continuing throughout the term of the City Regulatory Agreement, Developer shall procure and maintain, at its sole cost and expense, in a form and content reasonably satisfactory to the City Manager, the following policies of insurance:

(i) Commercial General Liability Insurance on a per occurrence basis with limits not less than Three Million Dollars (\$3,000,000) per occurrence. Any general aggregate limit shall apply to this Project only. Such insurance shall be endorsed to designate the Released/Indemnified Parties as additional insureds, including for the completed operations exposure, and shall be primary and not contribute with any insurance or self-insurance maintained by City. The foregoing limit may be obtained with a combination of Commercial General Liability and Umbrella Liability policies.

(ii) To the extent Developer has any employees, worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure, and provide legal defense for Developer against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by Developer in the course of carrying out the work or services contemplated in this Agreement, and Employers Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury or disease. The workers' compensation policy shall be endorsed to waive the insurer's right of subrogation against the Released/Indemnified Parties.

(iii) To the extent Developer has any employees, business Automobile insurance in an amount not less than Three Million Dollars (\$3,000,000) per accident covering all owned, hired, and non-owned vehicles used in connection with the development of the Project. The foregoing limit may be obtained with a combination of Business Automobile and Umbrella Liability policies.

c. Commencing on the Closing Date and continuing until City issues a Release of Construction Covenants for the Project, Developer shall procure and maintain, at its sole cost and expense, in a form and content reasonably satisfactory to the City Manager, "All Risks" Builder's Risk (course of construction) insurance coverage on a replacement cost basis in an amount equal to the full cost of the hard construction costs of the Project. Such insurance shall contain no coinsurance provision, and cover, at a minimum: all work, materials, and equipment to be incorporated into the Project; the Project during construction; the completed Project until such time as City issues a final certificate of occupancy for the Project, and storage, transportation, and equipment breakdown risks. Such insurance shall include coverage for flood, ordinance or law, temporary offsite storage, debris removal, pollutant cleanup and removal, preservation of property, landscaping, shrubs and plants and full collapse during construction. Such insurance shall protect/insure the interests of Developer/owner and all of Developer's contractor(s), and subcontractors, as each of their interests may appear. There shall be no exclusion for "design error." City shall be a loss payee under such policy or policies.

d. Developer shall cause any general contractor with whom it has contracted for the performance of work on the Site to secure, prior to commencing any activities hereunder and maintain insurance that satisfies all of the requirements of Section 3.5(b) and (f).

e. Commencing on the date City issues a Release of Construction Covenants, and continuing throughout the term of the City Regulatory Agreement, Developer shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City Manager, the following types of insurance:

(i) "All Risks" property insurance on a replacement cost basis in an amount equal to full replacement cost thereof, as the same may change from time to time. The above insurance policy or policies shall contain no coinsurance provision. City shall be a loss payee under such policy or policies.

(ii) Business interruption, rental value, and extra expense insurance to protect Developer and City covering loss of revenues and/or extra expense incurred by reason of the total or partial suspension or delay of, or interruption in, the operation of the Project caused by loss or damage to, or destruction of, any part of the insurable real property structures or equipment as a result of the perils insured against under the all risk physical damage insurance, covering a period of suspension, delay or interruption of at least twelve (12) months, in an amount not less than the amount required to cover such business interruption, rental value, and/or extra expense loss during such period.

(iii) Boiler and machinery insurance in the aggregate amount of the full replacement value of the equipment typically covered by such insurance.

f. The following additional requirements shall apply to all of the above policies of insurance:

(i) All of said policies of insurance except workers compensation shall provide that said insurance may not be amended or canceled without providing thirty (30) days' prior written notice (ten (10) days for non-payment of premium) to City. In the event any of said policies of insurance are canceled, Developer shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section to the City Manager. Not later than the Effective Date, Developer shall provide the City Manager with Certificates of Insurance and required endorsements evidencing the above insurance coverages.

(ii) The policies of insurance required by this Agreement shall be satisfactory only if issued by companies with an AM Best rating not less than "A-", VII or otherwise approved by City.

(iii) Self-insurance retentions must be declared to and approved by the City Manager.

g. Developer agrees that the provisions of this Section shall not be construed as limiting in any way City's right to indemnification or the extent to which Developer may be held responsible for the payment of damages to any persons or property resulting from Developer's activities or the activities of any person or persons for which Developer is otherwise responsible.

3.6 Remedies for Defaults Re: Insurance.

In addition to any other remedies City may have, if Developer commits a default hereunder by failing to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may at its sole option, and after delivery of written notice to Developer and expiration of a fifteen (15) day cure period, obtain such insurance and charge Developer for the amount of the premium for such insurance; provided, however, that if the City Manager reasonably determines that Developer, the Site, and/or Project will be uninsured or underinsured in the absence of any such insurance required hereunder, then City need not provide for any cure period in its notice of default to Developer, but may instead obtain such insurance immediately upon its provision of such notice. Exercise of the remedy set forth herein, however, is an alternative to other remedies City may have and is not the exclusive remedy for Developer's failure to maintain insurance or secure appropriate endorsements.

3.7 City and Other Governmental Agency Permits

Before commencement of construction or development of any buildings, structures or other works of improvement upon the Site or in connection with any off-site improvement, Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by City or any other governmental agency affected by such construction, development or work. It is understood that Developer's obligation is to pay all necessary fees and to timely submit to City final drawings with final corrections to obtain building permits; City will, without obligation to incur liability or expense therefor, use its reasonable efforts to expedite issuance of building

permits and certificates of occupancy for construction that meet the requirements of the Costa Mesa Municipal Code.

3.8 Rights of Access

For purposes of assuring compliance with this Agreement, representatives of City shall have the right of access to the Site without charges or fees, upon reasonable advance notice of not less than forty-eight (48) hours and at normal business hours during the period of this Agreement for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Project, so long as they comply with all safety rules. Such representatives of City shall be those who are so identified in writing by the City Manager. City shall hold Developer harmless from any bodily injury or related damages and indemnify Developer and Developer Entities for all claims or suits for, and damages to, property and injuries to persons, including accidental death (including expert witness fees, and attorneys' fees, and costs) arising out of by the activities of City as referred to in this Section 3.8, except to the extent caused by Developer or its agents.

3.9 Local, State and Federal Laws

Developer shall carry out the construction of the Project in conformity with all applicable laws, regulations, and rules of the governmental agencies having jurisdiction, including without limitation the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Costa Mesa Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. section 12101, *et seq.*, Government Code section 4450, *et seq.*, Government Code section 11135, *et seq.*, the Unruh Civil Rights Act, Civil Code section 51, *et seq.*, and the California Building Standards Code, Health and Safety Code section 18900, *et seq.*, and all federal, state, and local labor laws and regulations, including, without limitation, if applicable, the requirements to pay prevailing wages under federal law (the Davis Bacon Act, 40 U.S.C. section 3141, *et seq.*, and the regulations promulgated thereunder set forth at 29 CFR Part 1 (collectively, "**Davis Bacon**")) and California law (Labor Code section 1720, *et seq.*). The Parties acknowledge that a financing structure utilizing certain federal and/or state funding sources and financing scenarios may trigger compliance with applicable state and federal prevailing wage laws and regulations.

Developer shall be solely responsible, expressly or impliedly, and legally and financially, for determining and effectuating compliance with all applicable federal, state and local public works requirements, prevailing wage laws, and labor laws and standards, and City makes no representation, either legally and/or financially, as to the applicability or non-applicability of any federal, state and local laws to the Project, either onsite or offsite. Developer expressly, knowingly and voluntarily acknowledges and agrees that City has not previously represented to Developer or to any representative, agent or affiliate of Developer, or its contractor or any subcontractor(s) for the construction or development of the Project, in writing or otherwise, in a call for bids or otherwise, that the work and construction undertaken pursuant to this Agreement is (or is not) a "public work," as defined in section 1720 of the Labor Code or under Davis Bacon.

Developer knowingly and voluntarily agrees that Developer shall have the obligation to provide any and all disclosures or identifications as required by, if applicable, Labor Code section 1781 and/or by Davis Bacon, as the same may be amended from time to time, or any other similar law or regulation. In addition to any other Developer indemnifications of City set forth in this Agreement, Developer shall indemnify, protect, pay for, defend (with legal counsel reasonably acceptable to City) and hold harmless the Released/Indemnified Parties from and against any and all loss, liability, damage, claim, cost, expense and/or “increased costs” (including reasonable attorney’s fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction (as defined by applicable law) and/or operation of the Project, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (i) the noncompliance by Developer with any applicable local, state and/or federal law or regulation, including, without limitation, any applicable federal and/or state labor laws or regulations (including, without limitation, if applicable, the requirement to pay state and/or federal prevailing wages); (ii) the implementation of section 1781 of the Labor Code and/or of Davis Bacon, as the same may be amended from time to time, or any other similar law or regulation; and/or (iii) failure by Developer to provide any required disclosure or identification as required by, if applicable, Labor Code section 1781 and/or by Davis Bacon, as the same may be amended from time to time, or any other similar law or regulation. It is agreed by the Parties that, in connection with the development and construction (as defined by applicable law or regulation) of the Project, including, without limitation, any and all public works (as defined by applicable law or regulation), Developer shall bear all risks of payment or non-payment of prevailing wages under applicable federal, state and local law or regulation and/or the implementation of Labor Code section 1781 and/or by Davis Bacon, as the same may be amended from time to time, and/or any other similar law or regulation. “Increased costs,” as used in this Section 3.9, shall have the meaning ascribed to it in Labor Code section 1781, as the same may be amended from time to time. The foregoing indemnity shall survive termination of this Agreement and shall continue after completion of the construction and development of the Project by Developer.

3.10 Anti-Discrimination

Developer for itself and its successors and assigns, agrees, that in the construction of the Project on the Site or other performance under this Agreement, Developer shall not discriminate against any employee or applicant for employment on 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.

3.11 Taxes and Assessments

Developer shall pay prior to delinquency all real estate taxes and assessments on the Site so long as Developer retains a leasehold interest therein. Developer shall remove or have removed any levy or attachment made on the Site or any part thereof, or assure the satisfaction thereof within a reasonable time but in any event prior to any sale or transfer of Developer’s leasehold interest thereof. Notwithstanding the above, Developer shall have the right to contest the validity or amounts of and to apply for any applicable exemption from any tax, assessment, or encumbrance

available to Developer in respect thereto, and nothing herein shall limit the remedies available to the Developer in respect thereto.

3.12 Right of City to Satisfy Other Liens on the Site After Title Passes

After Developer has had written notice and has failed after a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Site which are not otherwise permitted under this Agreement, City shall have the right but no obligation to satisfy any such liens or encumbrances. Notwithstanding the above, Developer shall have the right to contest the validity or amounts of any tax, assessment, or encumbrance available to Developer in respect thereto.

3.13 Release of Construction Covenants

Within fifteen (15) business days after written request by Developer, and upon Developer's satisfactory completion of the Project, as evidenced by City's issuance of a certificate of occupancy (excluding any temporary certificate of occupancy issued by City), City shall issue to Developer a Release of Construction Covenants as long as Developer is not in default under this Agreement or any documents related hereto. The Release of Construction Covenants shall be, and shall so state, a conclusive determination of satisfactory completion of construction of the Project. After the date Developer is entitled to issuance of the Release of Construction Covenants, and notwithstanding any other provision of this Agreement to the contrary, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site shall not (because of any such ownership, purchase, lease, or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by the covenants herein that survive the issuance of the Release of Construction Covenants and the covenants set forth in the City Regulatory Agreement. The Release of Construction Covenants is not a notice of completion as referred to in California Civil Code section 3093.

If City refuses or fails to furnish a Release of Construction Covenants after written request from Developer, City shall, within fifteen (15) days after the written request, provide Developer a written statement of the specific reasons City refused or failed to furnish a Release of Construction Covenants. The statement shall also contain City's opinion of the action Developer must take to obtain a Release of Construction Covenants. If City refuses or fails to furnish the Release of Construction Covenants for the reason that specific minor non-life safety items or materials are not available or landscaping or other punch-list items are not complete and the cost thereof is less than two percent (2%) of the hard costs, as set forth in the Project Budget, City shall issue the Release of Construction Covenants upon the posting by Developer with City of a cash deposit, bond, or irrevocable letter of credit (in a form acceptable to City), at Developer's option, in an amount representing one hundred percent (100%) of the fair value of the work not yet completed.

3.14 Limitation on Encumbrances, Including Mechanic's Liens

Except as otherwise permitted by this Agreement, Developer shall not mortgage the leasehold interest in the Site or any portion thereof or any interest therein, any other mortgages or conveyances for financing that encumber the Site or any portion thereof, without the prior written approval of the City Manager, which approval shall not be unreasonably withheld.

In explanation and not limitation of the foregoing paragraph, Developer shall take all actions reasonably necessary to remove any mechanic's liens or other similar encumbrances (including design professional liens) against the Site, or any part thereof, by reason of work, labor, services, or materials supplied or claimed to have been supplied to Developer or anyone holding the Site, or any part thereof, through or under Developer. Upon request by the City, Developer shall provide to City updated information from Developer's title insurer. City hereby reserves all rights to post notices of non-responsibility and any other notices as may be appropriate upon a filing of a mechanic's lien. Developer shall indemnify, protect, defend and hold harmless City, and City's officials, officers, attorneys, employees, consultants, agents and representatives, with legal counsel reasonably acceptable to City, from and against any and all claims, liabilities, suits, losses, costs, expenses and damages, including but not limited to attorneys' fees and costs, arising directly or indirectly out of any claims for loss or damages by reason of a mechanic's lien or work, labor, services, or materials supplied or claimed to have been supplied to Developer or anyone holding the Site, or any part thereof, through or under Developer.

3.15 Holder Not Obligated to Construct Improvements

The holder of any mortgage, deed of trust or other security interest authorized by this Agreement shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion, nor shall any covenant or any other provision in the City Regulatory Agreement be construed so to obligate such holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Site to any uses or to construct any improvements thereon other than those uses or improvements provided for in this Agreement.

3.16 Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure

Whenever City shall deliver any notice or demand to Developer with respect to any breach or default by Developer in completion of construction of the Project, City shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage, deed of trust or other security interest authorized by this Agreement who has previously made a written request to City therefor. Each such holder shall (insofar as the rights of City are concerned) have the right, at its option, within sixty (60) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default and to add the cost thereof to the security interest debt and the lien on its security interest. In the event there is more than one such holder, the right to cure or remedy a breach or default of Developer under this Section 3.16 shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of Developer under this Section 3.16. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed Developer's obligations to City by written agreement satisfactory to City. The holder in that event must agree to complete, in the manner provided in this Agreement, the construction to which the lien or title of such holder relates and submit evidence satisfactory to City that it has the qualifications and financial responsibility necessary to perform such

obligations. Any such holder properly completing such improvements shall be entitled, upon written request made to City, to a Release of Construction Covenants from City.

3.17 Failure of Holder to Complete Improvements

In any case where, sixty (60) days after an uncured default by Developer in completion of construction under this Agreement, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Site has not exercised the option to construct, or if it has exercised the option, has not proceeded diligently with construction, City may purchase the mortgage, deed of trust or other security interest by payment to the holder all amounts owing with respect to the secured obligation, including all accrued and unpaid interest. If Developer's leasehold interest in the Site has vested in the holder, City, if it so desires, shall be entitled to a conveyance of the Site from the holder to City upon payment to the holder of an amount equal to the sum of the following:

1. The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);
2. All expenses with respect to foreclosure, including reasonable attorneys' fees and trustee's fees;
3. The net expenses, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Site or part thereof;
4. The costs of any authorized improvements made by such holder; and
5. An amount equivalent to the interest that would have accrued on the aggregate of the amounts in Subparagraphs 1-4 had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by City.

3.18 Right of City to Cure Mortgage, Deed of Trust or Other Security Interest Default

In the event of a default or breach by Developer of a mortgage, deed of trust or other security interest with respect to the Site prior to the completion of the Project, and the holder has not exercised its option to complete the construction, City may cure the default prior to completion of any foreclosure. In such event, City shall be entitled to reimbursement from Developer of all costs and expenses incurred by City in curing the default. City shall also be entitled to a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be subject to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to acquire and develop the Site as authorized herein.

3.19 Hazardous Materials

3.19.1 Indemnity

From and after the Close of Escrow, Developer agrees to defend, with (i) attorneys selected by City, or (ii) at City's election, selected by Developer and reasonably acceptable to the

City, indemnify, protect and hold harmless the Released/Indemnified Parties from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, “Environmental Response Actions” (as defined in Section 3.19.2 below), claims, losses, damages, fines, penalties, expenses, “Environmental Response Costs” (as defined in Section 3.19.2 below) or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys’ fees and experts’ and consultants’ fees), occurring during and/or caused by Developer’s use and occupancy of the Site, and resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials at, on, in, beneath or from the Site, including Hazardous Materials which first came to be located on the Site after the Close of Escrow, except to the extent caused by the gross active negligence or willful misconduct of Released/Indemnified Parties. Developer’s defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to notify the applicable governmental authority and/or respond to any governmental inquiry, investigation, claim or demand regarding the Hazardous Materials, at Developer’s sole cost. Notwithstanding the foregoing or anything to the contrary contained herein, Developer’s obligations pursuant to this Section 3.19.1 shall not extend to any Environmental Response Actions and/or Environmental Response Costs caused by the gross active negligence or willful misconduct of the Released/Indemnified Parties or relating to Hazardous Materials at, beneath or from the Site which first became located on the Site prior to the Close of Escrow, except if the introduction or occurrence of those Hazardous Materials resulted from Developer exercising a right of entry under this Agreement, or to the extent that such release of Hazardous Materials or toxic substances, or materials and/or waste therefrom were exacerbated or caused by Developer’s activities during its occupancy of the Premises.

3.19.2 Definitions

a. As used in this Agreement, the term “**Environmental Response Actions**” means any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, state or federal governmental or private party claims, including any claims by Developer.

b. As used in this Agreement, the term “**Environmental Response Costs**” means any and all costs associated with Environmental Response Actions including, without limitation, any and all fines, penalties and damages.

c. As used in this Agreement, the term “**Hazardous Materials**” means any substance, material or waste which is: (1) defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” or “restricted hazardous waste” under any provision of California or federal law; (2) regulated under California or federal law, including, without limitation, petroleum, asbestos, polychlorinated biphenyls, and/or radioactive materials; or (3) determined by a California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property or risk to the environment.

3.20 Materiality

Developer acknowledges and agrees that the defense, indemnification, protection and hold harmless obligations of Developer for the benefit of City set forth in this Agreement are a material element of the consideration to City for the performance of its obligations under this Agreement, and that City would not have entered this Agreement unless Developer's obligations were as provided for herein.

4. **USE OF THE SITE**

4.1 Uses In Accordance with City Regulatory Agreement

Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof that Developer and such successors and assignees, shall devote the Site to the uses specified in the City Regulatory Agreement, and this Agreement for the periods of time specified therein and herein. The City Regulatory Agreement shall run with the land.

4.2 Nondiscrimination

Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person, or group of persons on 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, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, or any part thereof, nor shall Developer, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site, or any part thereof. The foregoing covenants shall run with the land.

Developer agrees for itself and any successor in interest that Developer shall refrain from restricting the rental, sale, or lease of any portion of the Site, or contracts relating to the Site, on the basis of race, color, creed, religion, sex, gender identity, gender expression, sexual orientation marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of 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, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or

occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

2. In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: “That there shall be no discrimination against or segregation of any person or group of persons, on account of 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, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased. The foregoing covenants shall run with the land.”

3. In contracts pertaining to the Site: “There shall be no discrimination against or segregation of, any person or 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, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of City and City’s successors and assigns, and any successor in interest to the Site, together with any property acquired by Developer pursuant to this Agreement, or any part thereof. The covenants against discrimination shall remain in effect in perpetuity.

4.3 Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction

City is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. This Agreement and the covenants shall run in favor of City, without regard to whether City has been, remains or is an owner of any land or interest therein in the Site. City shall have the right, if this Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other property proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

4.4 Maintenance of the Site

Developer shall maintain the Project on the Site in conformity with the Costa Mesa Municipal Code and the requirements of the City Regulatory Agreement, and shall keep the Site free from any graffiti and from any accumulation of debris or waste materials.

Developer shall maintain the driveways, parking area and parking spaces on the Site in a safe condition, free of potholes and hazards. Developer shall also maintain the landscaping required to be planted under the Scope of Development in a healthy and attractive condition. If, at any time, Developer fails to maintain the Site or any portion thereof, and said condition is not corrected as soon as reasonably possible after written notice from City, City may enter the Site or applicable portion thereof to perform the necessary maintenance thereon and Developer shall pay such costs as are reasonably incurred for such maintenance plus a fifteen percent (15%) administrative fee. This covenant shall run with the land and shall remain in effect for the term of the City Regulatory Agreement.

5. **DEFAULTS AND REMEDIES**

5.1 Defaults – General

Subject to the extensions of time set forth in Section 6.3, failure or delay by either Party to perform any term or provision of this Agreement constitutes a default under this Agreement. If either Party defaults with regard to any of the provisions of this Agreement, the non-defaulting Party shall serve written notice of such default upon the defaulting Party. If a specific default is identified elsewhere in this Agreement and a specific cure provisions in provided with that specific default, those provisions shall govern; otherwise, if the default is not cured by the defaulting Party within thirty (30) days after service of the notice of default (or within such other period as is set forth herein), the non-defaulting Party shall be entitled to pursue whatever remedies to which such Party is entitled under this Agreement; provided however that if the default cannot reasonably be cured within such thirty (30) day period, the defaulting Party shall have such additional time to cure as is reasonable under the circumstances, as long as the defaulting Party commences to cure within such thirty (30) day period and diligently prosecutes such cure to completion.

5.2 Legal Actions

5.2.1 Specific Performance

The non-defaulting Party, upon expiration of applicable notice and cure periods, shall be permitted, but not obligated, to commence an action for specific performance of the terms of this Agreement, or to cure, correct or remedy any default hereunder or to obtain any other legal or equitable remedy consistent with the purpose of this Agreement. In this regard, Developer specifically acknowledges that City is entering into this Agreement for the purpose of assisting in the redevelopment of the Site and the provision of affordable housing and not for the purpose of enabling Developer to speculate in land. Each party shall also have the right to pursue damages for the other's defaults but in no event shall either party be liable for lost profits, consequential or punitive damages. The foregoing sentence shall not affect the right of either party to receive attorney's fees pursuant to Section 5.2.2 below.

5.2.2 Institution of Legal Actions; Attorney's Fees

Any legal actions must be instituted in the Superior Court of the County of Orange, State of California, or in the Federal District Court that serves the County of Orange as part of its jurisdiction. In the event of any litigation between the Parties hereto, the prevailing Party shall be entitled to receive, in addition to the relief granted, its reasonable attorney's fees and costs and such other costs incurred in investigating the action and prosecuting the same, including costs for expert witnesses, costs on appeal, and for discovery.

5.2.3 Applicable Law

The internal laws of the State of California shall govern the interpretation and enforcement of this Agreement, without regard to conflict of law principles.

5.2.4 Acceptance of Service of Process

In the event that any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Clerk or in such other manner as may be provided by law.

In the event that any legal action is commenced by City against Developer, service of process on Developer shall be made by personal service upon any officer or director of Developer and shall be valid whether made within or without the State of California or in such other manner as may be provided by law.

5.3 Rights and Remedies Are Cumulative

Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

5.4 Inaction Not a Waiver of Default

Any failures or delays by either Party 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, or deprive either such Party 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.

5.5 Termination by City

In the event that prior to the Close of Escrow:

- a. Developer (or any successor in interest) assigns or attempts to assign this Agreement or any rights therein or in the Site in violation of this Agreement; or
- b. There is a change in the ownership of the Developer contrary to the provisions of Section 1.5 hereof; or

c. Developer does not submit certificates of insurance, the documents required to be submitted pursuant to this Agreement, construction plans, or drawings and related documents as required by this Agreement, in the manner and by the dates respectively provided in this Agreement therefor, or is otherwise in material default hereof, and such default or failure is not cured within thirty (30) days, or for those defaults which cannot reasonably be cured within thirty (30) days, commenced to be cured within said thirty (30) day period and thereafter diligently prosecuted to completion, after the date of written demand therefor by City; or

d. Developer fails to satisfy any or all of City Disposition Conditions by the Outside Closing Date;

then, at the option of City, upon such written notice thereof to Developer as may be set forth above, this Agreement shall be terminated, and thereafter neither Party shall have any further rights or liability against the other under this Agreement, except as otherwise expressly provided for in this Agreement.

5.6 City's Option to Acquire Plans

If this Agreement is terminated by City pursuant to the terms hereof, then at the option of City, which may be exercised in City's sole and absolute discretion, Developer shall deliver to City all plans, blueprints, drawings, sketches, specifications, tentative or final subdivision maps, landscape plans, utilities plans, soils reports, noise studies, environmental assessment reports, grading plans and any other materials relating to the construction of the Project on the Site (the "**Plans**"), together with copies of all of the Plans, as have been prepared for the development of the Site to date of the termination. City's acquisition or use of the Plans or any of them shall be without any representation or warranty by Developer as to the accuracy or completeness of any such Plans, and City shall assume all risks in the use of the Plans. Notwithstanding anything herein to the contrary, (i) in the event City terminates this Agreement as a result of a default by Developer hereunder, City's acquisition of the Plans shall be at no cost to City, and (ii) in the event City terminates this Agreement for any reason other than a default by Developer hereunder, City shall be required to pay to Developer the reasonable costs incurred by Developer in preparing the Plans.

6. GENERAL PROVISIONS

6.1 Notices, Demands and Communications Between Parties

Written notices, demands and communications between City and Developer shall be sufficiently given if (i) delivered by hand, (ii) delivered by reputable same-day or overnight messenger service that provides a receipt showing date and time of delivery, or (iii) dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of City and Developer at the addresses specified in Section 1.3.1 and 1.3.2, respectively. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by mail as provided in this Section 6.1.

Any written notice, demand, or communication shall be deemed received immediately if delivered by hand or delivered by messenger in accordance with the preceding paragraph, and shall be deemed received on the third (3rd) day from the date it is postmarked if delivered by registered or certified mail in accordance with the preceding paragraph.

6.2 Conflicts of Interest

No member, officer, official, or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any member, official or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

6.3 Enforced Delay; Extension of Times of Performance

In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war; insurrection; strikes; lockouts; 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; subcontractor or supplier; or any other causes beyond the control or without the default of the Party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days after the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Developer. The City Manager shall also have the authority on behalf of City to administratively approve extensions of time not to exceed a cumulative total of six (6) months.

Notwithstanding the foregoing portion of this Section 6.3, Developer is not entitled pursuant to this Section 6.3 to an extension of time to perform because of past, present, or future difficulty in obtaining suitable construction financing for the development of the Site, or because of economic or market conditions.

6.4 Non-Liability of Officials and Employees of City

No member, official or employee of City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by City, or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement.

6.5 Interpretation; Entire Agreement, Waivers; Attachments

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of City and Developer, and all amendments hereto must be in writing by the appropriate authorities of City and Developer. Except as otherwise expressly provided, in any circumstance where under this Agreement either Party is required to approve or disapprove any matter, approval shall not be unreasonably withheld.

The exhibits and attachments to this Agreement are incorporated herein and made a part hereof.

6.6 Time of Essence

Time is of the essence in the performance of this Agreement.

6.7 Maintenance of Books and Records

Developer shall prepare and maintain all books, records, and reports necessary to substantiate Developer's compliance with the terms of this Agreement.

6.8 Right to Inspect

City shall have the right, upon not less than forty-eight (48) hours' notice, at all reasonable times during business hours, to inspect the books and records of Developer pertinent to the purposes of this Agreement.

6.9 Binding Effect of Agreement

This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their legal representatives, successors, and assigns. This Agreement shall likewise be binding upon and obligate the Site and the successors in interest, owner or owners thereof, and all of the tenants, lessees, sublessees, and occupants of such Site.

6.10 Severability

Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If, however, any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

6.11 Counterparts

This Agreement may be executed in counterparts, each of which, when this Agreement shall have been signed by both of the Parties hereto, shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

6.12 Amendments to this Agreement

Developer and City agree to mutually consider reasonable requests for amendments to this Agreement which may be made by either of the Parties hereto, the Qualified Tax Credit Investor, the Construction Lender or the Take-Out Lender, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein. The City Manager shall have the authority to approve, on behalf of City, amendments to this Agreement that would not substantially alter the basic business terms or substantially increase the cost or risk of this Agreement to City. All other amendments shall require the action of the Costa Mesa City Council. All amendments, including those authorized to be approved by the City Manager, shall be in writing and shall be signed by authorized representatives of City and Developer. The City Manager shall have the authority, on behalf of City, to approve extensions of time in Developer's performance under this Agreement, including, but not limited to, times of performance set forth in the Schedule of Performance, for a cumulative period of up to six (6) months.

6.13 Submission of Documents to the City for Approval.

Whenever this Agreement requires the Developer to submit plans, drawings or other documents to the City for approval, and there is no time specified herein for such approval, the Developer may submit a letter requiring approval or rejection by the City within sixty (60) days after submission.

6.14 Consents by City Manager.

Except when this Agreement or applicable law requires action by the City Council or other City governing board or commission, the City Manager shall have the authority to approve or grant, on behalf of the City, any approval, consent or waiver required under this Agreement by the City (and make any determination to be made by City under this Agreement). Nothing in this section shall prevent the City Manager from referring an approval, consent or waiver to the City Council or other legislative body of the City that otherwise may be acted upon by the City Manager under this Agreement.

6.15 Limited Recourse Obligations.

The obligations of Developer under this Agreement are a limited obligation of the Developer and no member, officer, partner or employee of Developer shall have any personal liability for the obligations of Developer contained in this Agreement.

[End of Agreement – Signature page follows]

IN WITNESS WHEREOF, City and Developer have signed this Agreement on the respective dates set forth below.

CITY OF COSTA MESA,
a California municipal corporation

Dated: _____

By: _____
Lori Ann Farrell Harrison, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

JONES MAYER

Counsel to the City of Costa Mesa

JHC-ACQUISITIONS LLC, a California limited liability company,

By: Jamboree Housing Corporation, a California nonprofit public benefit corporation, Manager

Dated: _____

By: _____
Michael Massie, Executive Vice President and Chief Development Officer

ATTACHMENT NO. 1

SITE MAP

[See attached documents]

ATTACHMENT NO. 2

LEGAL DESCRIPTION

[To be inserted prior to Close of Escrow]

ATTACHMENT NO. 3
SCOPE OF DEVELOPMENT

The name of the Project is Costa Mesa Senior.

The Project will consist of up to 70 apartments, approximately 133 parking stalls, and common area amenities.

The Site is approximately 1.50 acres of the existing Costa Mesa Senior Center.

The apartment mix is to consist of up to sixty-eight 1-bedroom and one (1) 2-bedroom units available at Affordable Rent, and one (1) 2-bedroom Management Unit. Unit sizes will vary with one-bedroom units averaging approximately 566 SF, and 2-bedroom units averaging approximately 855 SF. The Project will have a total of four floors and will be serviced by an elevator. The building maximum height will be 57'-6" feet.

Site amenities will include onsite management, onsite supportive services coordinator, laundry facilities, library, fitness room, pet spa, and flexible community room to facilitate classes and supportive programs.

The Project will comply with California Building Standards, and the City's building code.

ATTACHMENT NO. 4

SCHEDULE OF PERFORMANCE

ACTIVITY	TIME FRAME
1. Developer submits application for 9% Tax Credits. (Section 2.1.2)	Deadline established by TCAC, up to four rounds.
2. Developer provides Annual Financial Statement. (Section 2.1.4)	Within 5 days of Effective Date.
3. Developer provides City notification of reservation of 9% Tax Credit. (Section 2.1.4)	Promptly upon receipt by Developer, not more than 2 business days after receipt.
4. Opening of Escrow. (Section 2.2.2.a)	Within 2 days after Developer has obtained a reservation of 9% Tax Credits from TCAC.
5. Developer submits preliminary applications to City for all Project Entitlements defined in Section 1.4.	Upon Opening of Escrow.
6. PTR obtained, Documents to Developer. (Sections 2.2.3.a, 2.2.4.a, 2.2.5.a)	Within 10 business days after Opening of Escrow.
7. Developer submits any supplemental or corrected applications to City for all Project Entitlements defined in Section 1.4	Within 30 days after Opening of Escrow.
8. Developer approves/disapproves title conditions in PTR. (Section 2.2.3.a)	Within 30 days after delivery of PTR.
9. City responds to Developer's approval/disapproval of title conditions in PTR. (Section 2.2.3.a)	Within 10 business days of Developer notice.
10. Developer responds to City response to Developer's approval/disapproval of title conditions in PTR. (Section 2.2.3.a)	Within 10 days of City response.
11. Due Diligence Period ends. (Section 2.2.4.a)	60 days after delivery of Documents.

ACTIVITY	TIME FRAME
12. Developer obtains financing and delivers City evidence of financing Project. (Section 2.2.6)	Prior to Closing Date.
13. Developer obtains Project Entitlements and permits for grading and building the Project. (Section 2.2.7)	Prior to Closing Date.
14. Delivery to Escrow City Ground Lease, Memorandum of Ground Lease, City Easement Agreement, City Note, City Deed of Trust, City Regulatory Agreement, and Notice of Affordability Restrictions. (Section 2.2.11)	No later than noon 2 days prior to anticipated Closing Date.
15. Close of Escrow/Closing Date (Sections 2.2.2.c and 2.2.12)	2 business days after all Closing Conditions are met or waived.
16. Issuance of title insurance for Developer and City. (Sections 2.2.3, 2.3)	Closing Date.
17. Developer commences construction for the Project.	Within 194 days after receiving a preliminary reservation letter from TCAC for 9% Tax Credits.
18. Developer submits to City person or entity proposed as the Property Manager (City Regulatory Agreement, Section 5.2)	No later than one hundred 180 days prior to issuance of certificate of occupancy by City.
19. Developer submits for City's review and approval, marketing and management plans for the Project. (City Regulatory Agreement, Sections 5.1, 5.2)	No later than 90 days prior to issuance of certificate of occupancy by City.
20. Developer completes construction of the Project, obtains a certificate of occupancy from City, and requests City issuance of Release of	Within 3 years after Developer commences construction.

ACTIVITY	TIME FRAME
Construction Covenants. (Section 3.13)	
21. City issues a Release of Construction Covenants for the improvements or provides Developer with a written explanation why a Release of Construction Covenants shall not be issued. (Section 3.13)	Within 15 business days after City receipt of written request from Developer for Release of Construction Covenants pursuant to Section 3.13 of the Agreement.
22. Developer submits to City an accounting of the Capital Replacement Reserve. (City Regulatory Agreement, Section 5.8)	On or before December 1 of each year after completion of construction of the Project for term of the City Regulatory Agreement.
23. Developer submits annual report pursuant to Health and Safety Code Section 33418 to City. (City Regulatory Agreement, Section 3.7)	Not later than December 1 of each year for term of the City Regulatory Agreement.

It is understood that the foregoing Schedule is subject to all of the terms and conditions of the text of the Agreement including, without limitation, Section 6.3. The summary of items of performance in the Schedule is not intended to supersede or modify any more complete description in the text; in the event of any conflict or inconsistency between this Schedule and text of the Agreement, the text of the Agreement shall govern.

ATTACHMENT NO. 5

CITY NOTE

[SEE FOLLOWING DOCUMENT]

PROMISSORY NOTE

Loan Amount: \$700,000_____

Costa Mesa, California

FOR VALUE RECEIVED, _____ LP, a California limited partnership (“**Borrower**”) promises to pay to the CITY OF COSTA MESA, a California municipal corporation (“**City**”), the principal sum of Seven Hundred Thousand Dollars (\$700,000) (the “**City Loan**”), or so much of such principal as may be disbursed pursuant hereto and in accordance with that certain Affordable Housing / Disposition and Development Agreement between the City and Borrower and dated for identification purposes only as of _____, 2025 (the “**Agreement**”), plus interest on the outstanding principal balance, in accordance with the terms and conditions set forth herein. This Note evidences the obligation of Borrower to City for the repayment of certain funds (the “**City Loan**”) loaned to Borrower by City pursuant to the Agreement, in connection with the acquisition and development of real property located at [TBD] W. 19th Street, in the City of Costa Mesa (the “**Site**”) and the construction thereon of affordable apartment units (the “**Project**”). All capitalized terms unless otherwise defined herein shall have the same meaning as set forth in the Agreement, which is incorporated herein by this reference.

Reference is also made to the following additional agreements and documents, of even date herewith, involving City and Borrower and/or pertaining to the Site:

- (i) Leasehold Deed of Trust with Assignment of Rents by and between Borrower as Trustor, City as beneficiary, and First American Title Insurance Company as Trustee, and recorded in the Office of the Orange County Recorder (“**City Deed of Trust**”). The City Deed of Trust secures repayment of this Note and performance of monetary repayment obligations under the Agreement.
- (ii) Regulatory Agreement and Declaration of Covenants and Restrictions, by and between Borrower and City, for the benefit of City, and recorded in the Office of the Orange County Recorder (“**City Regulatory Agreement**”).
- (iii) Easement Agreement in favor of City for access, utilities, drainage and parking (“**City Easement Agreement**”).

1. Definitions.

“**Affiliate**” shall mean any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Borrower which, if Borrower is a partnership or limited liability company, shall include each of the constituent members or general partners, respectively, thereof. The term “control” as used in the immediately preceding sentence means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, of more than 50% of the voting rights attributable to the shares of the controlled corporation, and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

“Annual Financial Statement” shall mean the financial statements prepared by Borrower for each calendar year during the period from the date one hundred percent (100%) of the Units in the Project have been leased and are occupied until the Maturity Date, including a balance sheet, income statement, statement of retained earnings, statement of cash flows, and footnotes thereto, prepared in accordance with generally accepted accounting principles consistently applied, as audited by an independent certified public accountant.

“Applicable Percentage” shall mean fifty percent (50%).

“Approved Budget” shall have the meaning ascribed in Section 3.14 of the City Regulatory Agreement.

“Assignment” shall mean any voluntary assignment permitted pursuant to the terms of the Agreement.

“Capital Improvements” shall mean all work and improvements with respect to the Site for which costs and expenses may be capitalized in accordance with GAAP.

“City Loan Documents” shall mean, collectively, the Agreement, this Note, the City Regulatory Agreement, and the City Deed of Trust.

“City Manager” shall mean the individual duly appointed to the position of the City Manager of the City of Costa Mesa, or his or her authorized designee.

“CPI” shall mean the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for All Urban Consumers, Los Angeles-Long Beach-Anaheim Area, All Items (1982-84=100), or, if said index is discontinued, such official index as may then be in existence and which is most nearly equivalent to said index.

“Debt Service” shall mean scheduled debt service (including impounds, expenses, and other amounts payable) on the Senior Loan.

“Deferred Developer Fee” shall mean the portion of the Developer Fee, if any, to be paid from Net Operating Income. The Deferred Developer Fee is anticipated to be approximately [One Million Three Hundred Ninety-Nine Thousand Four Hundred Forty Dollars (\$1,399,440)].

“Developer Fee” shall mean the fee to be paid to the Developer for constructing the Project, in the amount of [Two Million Eight Hundred Thousand Dollars (\$2,800,000)].

“Fiscal Year” shall mean the fiscal year of Borrower, which is the calendar year.

“GAAP” shall mean generally accepted accounting principles as in effect from time to time, consistently applied.

“Maturity Date” shall mean the date the Term expires.

“Net Operating Income” shall mean, for the applicable period of time, (i) the amount, if any, by which Operating Income for such period exceeds Operating Expenses paid by Borrower

during such period; and, provided there is such an excess, less (ii) Deferred Developer Fee, until such fee is paid in full, and provided that there is any remaining amount, less (iii) the Partnership Asset Management Fee.

“Net Proceeds” shall mean (a) the proceeds received, directly or indirectly, by Borrower or any Affiliate or constituent member or partner, or majority shareholder, of Borrower (i) as a result of an Assignment, including, without limitation, cash, the amount of any monetary lien or encumbrance assumed or taken subject to by the assignee, the fair market value of any non-cash consideration, including the present value of any promissory-note received as part of the proceeds of such Assignment (such present value to be determined based upon a discount rate reasonably satisfactory to City), (ii) consisting of the entire condemnation award or compensation payable to Borrower or any Affiliate or constituent member or partner, or majority shareholder, of Borrower in connection with a condemnation or taking in eminent domain of any part of the Site or the Project or any interest therein, or (iii) consisting of all casualty insurance proceeds or awards payable to Borrower or any Affiliate or constituent member or partner or majority shareholder of Borrower in connection with any damage to or destruction of the Site or the Project or any part thereof; less (b) the sum of (i) the actual, documented and reasonable expenses of effecting such Assignment, including title insurance premiums, documentary transfer taxes, and reasonable attorneys’ fees, in each case actually paid in connection with the Assignment (provided that no deduction shall be allowed for payments to an affiliate of the person or entity making the Assignment which are in excess of the amount that would be paid for the same or equivalent services in an arms’ length transaction between unrelated parties acting reasonably), (ii) the costs incurred by Borrower to repair or rebuild the Project in the event of any damages, destruction, or condemnation of all or any portion of the Project, or any necessary repairs or capital improvements to the Project, (iii) payment of any Deferred Developer Fee, (iv) capital improvement reserves for the Project, (v) amounts required to be reserved by a Senior Lender and (vi) the amount of any proceeds of the Assignment, casualty or condemnation paid (excluding voluntary payments) towards the then-outstanding balance of the Senior Loan and/or any Project financing being refinanced or to acquire or redeem the interest of Borrower’s limited partner.

“Net Refinancing Proceeds” shall mean the gross face amount of any Project financing obtained in connection with such Refinancing, after: (a) payment of the actual, documented and reasonable expenses of such Refinancing, including escrow fees, title policy expenses, legal expenses, survey fees, recording fees, commissions, or other usual and reasonable expenses of any such Refinancing (provided, that no deduction shall be allowed for payments in connection with such Refinancing which are in excess of the amounts that would be paid for the same or equivalent services in an arms’ length transaction between unrelated parties acting reasonably); (b) payment of the loan being repaid by such Refinancing; (c) deduction of amounts repaid (excluding voluntary payments) in connection with the Refinancing towards amounts outstanding under the Senior Loan; (d) payment of any Deferred Developer Fee; (e) repayment of any completion or operating deficit loans; (f) any portion of such proceeds that are required to be paid to another soft lender, provided the loan made by such soft lender is contemplated in the Project Budget, (g) amounts reserved for any repairs or capital improvements to the Project, (h) amounts required to be reserved by the Refinancing lender and (i) amounts paid to acquire or redeem the interest of Borrower’s limited partner.

“Operating Expenses” shall mean, for the applicable period of time, all costs and expenses reasonably incurred by Borrower in the ordinary course of the management, ownership, and/or operation of the Site by Borrower, including the payment of Debt Service, the funding of reasonable reserves including reserves required by any lender or the tax credit investor, and the payment of the following fees, paid annually: (a) the Social Services Fee; (b) a property management fee in the amount of [Nine Hundred Dollars (\$900.00)] per Unit per year, increasing by 3% per annum following the first year of operation, and the monitoring payment required to be paid pursuant to Section 3.15 of the City Regulatory Agreement and any monitoring payment required to be paid to any other Project lenders; (c) any tax benefit payments payable out of net cash flow to Borrower’s limited partner(s); (d) amounts expended to restore the Project after a casualty or condemnation, and (e) repayments of any completion or operating deficit loans advanced by a partner or member of Borrower or their Affiliates. Operating Expenses shall not include depreciation or any expenses for Capital Improvements, except for Capital Improvements allowed in the Approved Budget, approved by any lender providing a Senior Loan, or approved, with such approval not to be unreasonably withheld or delayed, by the City Manager. Operating Expenses shall be calculated on a cash basis.

“Operating Income” shall mean, for the applicable period of time, all proceeds received by Borrower from the operation of the Site and from any and all sources resulting from or attributable to the operation of the Site, including, without limitation, all rentals, laundry income received by Borrower, forfeited security deposits, and all expense reimbursements paid to Borrower by tenants of the Site. Operating Income shall be calculated on a cash basis. Operating Income excludes insurance proceeds, condemnation proceeds, loan proceeds and/or capital contributions.

“Partnership Asset Management Fee” shall mean (i) the Limited Partner Asset Management Fee of [Five Thousand Dollars (\$5,000)] per year, payable for fifteen (15) years, and increased by three percent (3%) each year following the first year of operation, and (ii) the Managing General Partner Fee of [Twenty Thousand Dollars (\$20,000)] per year, and increased by three percent (3%) each year following the first year of operation. After fifteen (15) years of operation, no Limited Partner Asset Management Fee shall be paid, except in connection with a syndication.

“Project Budget” shall mean the budget attached to the Agreement as Attachment No. 9.

“Refinancing” shall mean creation or substantial modification of any of the existing financing on the Site. The term “Refinancing” shall not include the creation of the Construction Loan, the Take-Out Loan or any other Project financing, the proceeds of which are used solely for initial development of the Project.

“Release of Construction Covenants” shall mean the document which evidences the Borrower’s satisfactory completion of the Project in accordance with the Agreement.

“Senior Loan” shall mean the Construction Loan and the Take-Out Loan and any Refinancing thereof.

“**Senior Loan Documents**” shall mean any and all agreements and documents related to a Senior Loan.

1.1 “**Social Services Fee**” shall mean a minimum of [Two Thousand Two Hundred Three Dollars (\$2,203)] per unit per year, increasing annually by three percent (3%), which are to be set aside and used exclusively for the Social Services to be provided to the residents of the Project.

“**Term**” shall mean the period commencing on the execution hereof, and terminating on the fifty-fifth (55th) anniversary of the first date on which all of the Units restricted for rental to and occupancy by Eligible Tenants have been leased to and are occupied by Eligible Tenants.

2. Interest and Repayment.

2.1 Basic Interest Rate. Except as provided in section 2.5 below, the disbursed and unpaid principal balance of the City Loan shall bear interest at the simple rate of three percent (3%) per year (the “**Basic Interest Rate**”). As used herein, the term “disbursed” shall mean and refer to the time when the fees which are the subject of the loan would have been due and payable from Borrower to City, pursuant to the Agreement.

2.2 Payment Dates and Amounts.

(a) Principal and Interest Payments. Payments on this Note shall be payable annually on December 1 of each year during the Term, in an amount equal to the Applicable Percentage multiplied by the Net Operating Income for the calendar year immediately preceding such annual payment date. In the event that there is no Net Operating Income available for payment of principal and interest for any calendar year, then interest shall continue to accrue on the City Loan during such year. On or before each December 1 during the Term, regardless as to whether any payment of principal and interest is remitted, Borrower shall provide City with an accounting documenting the calculation of Net Operating Income for the previous calendar year.

(b) Payments Due in the Event of Refinancing of Senior Loans or Transfer of Project. If Borrower undertakes a Refinancing during the Term as permitted by the Agreement, the Applicable Percentage of any Net Refinancing Proceeds of that Refinancing shall be payable to City no later than the recording of the Refinancing and applied to the outstanding balance of the City Loan. If Borrower causes an Assignment, or otherwise transfers all or part of the Project as provided in Section 1.5 of the Agreement, or any casualty or condemnation occurs to the Project in either case during the Term, the Applicable Percentage of any Net Proceeds of that transfer, casualty, or condemnation shall be payable to City no later than the date of close of escrow or other consummation of the transfer, or upon payment to or receipt by Borrower in the event of a casualty or condemnation, and applied to the outstanding principal and interest due on the City Loan.

(c) Interest First. All payments shall be applied first to accrued interest and thereafter to principal.

2.3 Financial Statements. On the December 1 following Borrower’s commencement of construction of the Project, and on each December 1 thereafter throughout the Term, Borrower shall submit to City its Annual Financial Statement for the preceding year. Net Operating Income

shall be calculated by Borrower for each year beginning in the first year any of the Units are rented to and occupied by Eligible Tenants (and certified by an authorized officer of Borrower) and reported by Borrower to City annually for each calendar year no later than December 1st of the following calendar year on forms specified and provided by City from time to time. All calculations and records shall be based upon Borrower's Annual Financial Statement and shall be subject to audit by City. In connection with any audit, Borrower shall provide to City for inspection and copying any records, receipts, account books, ledgers, checks, or other documents or other evidence reasonably requested by City for the purpose of verifying Borrower's calculation of Net Operating Income, and shall promptly pay to City any further amount due but not paid as a result of any miscalculation by Borrower. Costs of any such audit shall be borne by Borrower if a miscalculation has led to any payment shortfall of more than ten percent (10%) to City; provided, however, that if such miscalculation was a result of Borrower's gross negligence or willful misconduct, the costs of such audit shall be borne by Borrower, regardless of the amount of the shortfall. City shall promptly pay Borrower any overpayments made by Borrower as shown by such audit.

2.4 Maturity Date. The outstanding principal balance of the City Loan amount, together with any outstanding interest due thereon and any other sums payable under this Note, shall be due and payable in full on the date the Term terminates (the "**Maturity Date**"). Notwithstanding anything to the contrary in this Note, Borrower may prepay all or any portion of the outstanding balance due hereunder without penalty.

2.5 Default Rate. Any amounts (including but not limited to amounts of principal and interest on the City Loan) which Borrower does not pay within ten (10) days following written notice that such amount is due under the terms of this Note, shall bear interest at the rate of the lesser of ten percent (10%) or the maximum rate allowed per law per annum ("**Default Rate**"), simple interest, from the date which is ten (10) days after such notice until the date paid.

3. Acceleration.

The entire outstanding principal balance of this Note, together with any outstanding interest and other amounts payable hereunder, shall, at the election of City and upon notice to Borrower thereof, become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by Borrower, if, notwithstanding the payment terms set forth in Section 2 above, an "Event of Default" occurs as set forth in Section 10 below.

4. Prepayment; Application of Payments.

At any time after the Borrower has received any credit from City for any permit, inspection or impact fee or had permits issued without payment of fees, as part of the City Loan, Borrower may prepay all or a portion of the unpaid principal amount of the City Loan and accrued interest and any other sums outstanding without penalty. All payments, including any prepayments or funds received upon acceleration pursuant to Section 3 above, shall be applied first toward any outstanding costs of collection or other amounts (excluding City Loan principal or interest thereon) due under this Note or the Agreement, then toward outstanding interest accrued at the Default Rate, if any, then toward outstanding interest accrued at the Basic Interest Rate, if any, and finally toward the remaining principal balance under the Note.

5. Security and Source of Payment.

Borrower's obligations under this Note and monetary repayment obligations under the Agreement shall be secured by the City Deed of Trust.

The City Loan shall constitute a nonrecourse obligation of Borrower, and neither Borrower nor any partner, member, or shareholder thereof shall have any personal liability for repayment.

However, nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for this Note of all the rights and remedies of the City, or (b) be deemed in any way to impair the right of the City to assert the unpaid principal amount of this Note as a demand for money within the meaning and intendment 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 this Note; nothing contained herein is intended to relieve the Borrower and, if Borrower is a partnership, limited liability company, or corporation, any general partner, member, or shareholder of Borrower of liability for damages caused to City as a result of (i) fraud or willful misrepresentation of a material fact; (ii) the failure to pay when due taxes, assessments or other charges which may create liens on the real property described in the City Loan documents 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 retention of any rental income or other income arising with respect to the Project collected by Borrower after an Event of Default to the full extent of the rental income or other income retained and collected by Borrower after the giving of any such notice, and not used to pay Operating Expenses; (iv) the intentional or knowing misapplication 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 Project; and (v) intentional and material breach of any environmental covenant or representation made by the Borrower relating to the Project.

6. Obligation of Borrower Unconditional.

The obligation of Borrower to repay the City Loan and all accrued interest thereon shall be absolute and unconditional, and until such time as all of the outstanding principal of and interest on this Note shall have been fully paid, Borrower agrees that it: (a) will use the funds solely for the purposes set forth herein and in the Agreement; and (b) will not terminate or suspend any payment or obligations under this Note, the Agreement, or any other document executed hereunder or in connection herewith for any cause, including without limitation, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any duty, liability or obligation arising out of or in connection with this Note, the Agreement or any document executed hereunder or in connection herewith.

7. Purpose of City Loan.

The City Loan proceeds shall be used by Borrower as provided in the Agreement and for such other uses previously approved in writing by City. In no event shall Borrower use or otherwise invest the proceeds of the City Loan except as expressly provided in this Note and/or in the Agreement.

8. Covenants of Borrower.

As additional consideration for the making of the City Loan by City, Borrower covenants as follows:

8.1 Compliance with Agreement, City Regulatory Agreement, and City Deed of Trust. Borrower shall comply with all of its obligations under the Agreement, City Regulatory Agreement and the City Deed of Trust. Any amounts payable by Borrower under the Agreement, City Regulatory Agreement, or the City Deed of Trust (other than amounts also payable hereunder) shall be deemed added to the principal amount of the City Loan repayable hereunder.

8.2 Other Loans. Borrower shall comply with all monetary and non-monetary covenants associated with any loan secured by an interest in the Site or the Project. Borrower shall provide to City a copy of any notice of default within five business days after receiving any notice of a default or alleged default of such covenants by Borrower, and Borrower shall promptly cure any such default and cooperate in permitting City, to the extent City in its sole discretion elects to do so, to cure or assist in curing the default. Any cost or expenditure incurred by City in providing or assisting in such a cure shall be deemed added to the outstanding principal amount of the City Loan.

8.3 Payment of Deferred Developer Fee and Partnership Asset Management Fee. Borrower shall not utilize Operating Income to pay the Deferred Developer Fee or to make any payments of the Partnership Asset Management Fee unless and until Operating Income exceeds Operating Expenses.

9. Assignment of this Note.

This Note shall be assignable by Borrower only in strict compliance with Section 1.5 of the Agreement. Notwithstanding anything which may be or appear to be herein to the contrary, no purported Assignment of this Note and/or the City Loan shall be effective if such Assignment would violate the terms, conditions and restrictions of any applicable ordinances, laws, or regulations. City's consent to such Assignment shall be expressly conditioned upon (a) the assignee's execution of such documents as reasonably required by City including, without limitation, any and all documents reasonably deemed necessary by City to provide for said assignee's assumption of all of the obligations of Borrower hereunder, under the City Regulatory Agreement, under the City Deed of Trust, and under the City Loan Documents, (b) City's approval of the financial and credit worthiness of such proposed assignee (such approval not to be unreasonably withheld, conditioned or delayed), and (c) Borrower's or assignee's payment of all City costs, including reasonable legal fees and costs of staff time incurred in evaluating any Assignment.

10. Events of Default and Remedies.

10.1 Borrower Events of Default. The occurrence of any of the following shall, after the giving of any notice and expiration of any applicable cure period as described herein, constitute an event of default by Borrower hereunder ("**Event of Default**"):

(a) The failure of Borrower to pay or perform any monetary covenant or obligation under the terms of this Note without curing such failure within ten (10) days after receipt of written notice of such default from City (or from any party authorized by City to deliver such notice as identified by City in writing to Borrower);

(b) The failure of Borrower to perform any non-monetary covenant or obligation under this Note without curing such failure within thirty (30) days after receipt of written notice of such default from City (or from any party authorized by City to deliver such notice as identified by City in writing to Borrower) specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency. Provided, however, that if any default with respect to a non-monetary obligation is such that it cannot reasonably be cured within a thirty (30) day period, it shall be deemed cured if Borrower commences the cure within said thirty (30) day period and diligently prosecutes such cure to completion thereafter. Notwithstanding anything herein to the contrary, the herein described notice requirements and cure periods shall not apply to any Event of Default described in Sections 10.1(e) or 10.1(f) below;

(c) The failure of Borrower to perform any monetary repayment obligation under the Agreement, City Deed of Trust or City Regulatory Agreement, unless the default is cured within the applicable cure period (if any);

(d) The knowing or intentional falsity when made of any representation of a material fact or material breach of any representation or warranty made by Borrower under the terms of this Note, the Agreement, the City Regulatory Agreement or the City Deed of Trust;

(e) Borrower shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like of its property, (ii) fail to pay or admit in writing its inability to pay its debts generally as they become due, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated bankrupt or insolvent or (v) commence a voluntary petition that is not withdrawn within ten (10) days of the filing thereof or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding;

(f) If without the application, approval or consent of Borrower, a proceeding shall be instituted in any court of competent jurisdiction, under any law relating to bankruptcy, in respect of Borrower, for an order for relief or an adjudication in bankruptcy, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of Borrower or of all or any substantial part of Borrower's assets, or other like relief in respect thereof under any bankruptcy or insolvency law, and, if such proceeding is being contested by Borrower, in good faith, the same shall (i) result in the entry of an order for relief or any such adjudication or appointment, or (ii) continue undismissed, or pending and unstayed, for any period of ninety (90) consecutive days;

(g) Voluntary cessation of the operation of the Project for a continuous period of more than thirty (30) days or the involuntary cessation of the operation of the Project for a continuous period of more than sixty (60) days other than as the result of a casualty or condemnation; or

(h) An Assignment or other transfer in violation of Section 1.5 of the Agreement.

10.2 City Remedies. Upon the occurrence and during the continuance of an Event of Default hereunder, City may, in its sole discretion, take any one or more of the following actions:

(a) By notice to Borrower and the Qualified Tax Credit Investor, except in the case of an Event of Default by Borrower under Section 10.1(e) or Section 10.1(f) in which event no notice pursuant to this Note shall be required, declare the entire then unpaid principal balance of the City Loan immediately due and payable, and the same shall become due and payable without further demand, protest or further notice of any kind, all of which are expressly waived. Upon such declaration, outstanding principal and (to the extent permitted by law) interest and any other sums outstanding in connection with the City Loan shall thereafter bear interest at the Default Rate, payable from the date of such declaration until paid in full;

(b) Subject to the nonrecourse provisions of Section 5 above, take any and all actions and do any and all things which are allowed, permitted or provided by law, in equity or by statute, in the sole discretion of City, to collect the amounts then due and thereafter to become due hereunder, to exercise its rights under the City Deed of Trust, and to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Note, the Agreement or under any other document executed in connection herewith;

(c) Subject to the nonrecourse provision of Section 5 above, upon the occurrence of an Event of Default which is occasioned by Borrower's failure to pay money, City may, but shall not be obligated to, make such payment. If such payment is made by City, Borrower shall deposit with City, upon written demand therefor, such sum plus interest at the Default Rate. In either case, the Event of Default with respect to which any such payment has been made by City shall not be deemed cured until such repayment (as the case may be) has been made by Borrower. Until repaid, such amounts shall have the security afforded the amounts evidenced by this Note; or

(d) Subject to the nonrecourse provisions of Section 5 above, upon the occurrence of an Event of Default described in Section 10.1(e) or 10.1(f) hereof, City shall be entitled and empowered by intervention in such proceedings or otherwise to file and prove a claim for the whole amount owing and unpaid on the City Loan and, in the case of commencement of any judicial proceedings, to file such proof of claim and other papers or documents as may be necessary or advisable in the judgment of City and its counsel to protect the interests of City and to collect and receive any monies or other property in satisfaction of its claim.

10.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to City is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Note or now existing at law or in equity or by statute; and may be exercised in such number, at such times and in such order as City may determine in its sole discretion. No delay or omission to exercise any right or power upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient by City. In order to entitle City to exercise

any right or remedy reserved to it under this Note, no notice shall be required except as expressly provided herein.

11. Agreement to Pay Attorneys' Fees and Expenses.

In the event that City brings any action or files any proceeding in connection with the enforcement of its rights under this Note or the City Deed of Trust, as a consequence of any breach by Borrower of its obligations hereunder or thereunder, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees and out-of-pocket expenditures paid by the losing party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees, the prevailing party in any lawsuit on this Note or the City Deed of Trust shall also be entitled to its reasonable attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. In addition to the foregoing, Borrower agrees to pay or reimburse City, upon demand by City, for all costs incurred by City in connection with enforcement of this Note or the City Deed of Trust, including without limitation, reasonable attorneys' fees and costs, if there shall be filed by or against Borrower any proceedings under any federal or state bankruptcy or insolvency laws, whether City is a creditor in such proceedings or otherwise.

12. Notices.

All notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Note shall be in writing and shall be given by personal delivery, first class mail certified or registered, return receipt requested, or reputable overnight delivery service that provides a receipt with the time and date of delivery and addressed as follows:

To City
City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92626
Attn: City Manager

With a copy to:
Jones Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835
Attn: Kimberly Hall Barlow

To Borrower:

During Construction:

c/o Jamboree Housing Corporation
17701 Cowan Ave., Suite 200
Irvine, CA 92614
Attn: Executive Vice President and
Chief Development Officer

Following completion of construction:

c/o Jamboree Housing Corporation
17701 Cowan Ave., Suite 200
Irvine, CA 92614
Attn: Asset Management

With a copy to:

Rutan & Tucker, LLP
18575 Jamboree Road, 9th Floor
Irvine, CA 92612
Attn: Patrick McCalla, Esq.

Any Notice shall be deemed received immediately if delivered by hand or by overnight courier, and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

13. Severability.

The invalidity or unenforceability of any one or more provisions of this Note will in no way affect any other provisions.

14. Interpretation.

Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the paragraphs of this Note are for convenience only and do not define or limit any terms or provisions. Time is of the essence in the performance of this Note by Borrower. Borrower has been represented by counsel in the negotiation of this Note, and it shall not be interpreted in favor of or against any party on account of relative responsibilities in drafting. Notwithstanding any other provision of this Note, nothing in this Section 14 or elsewhere in this Note shall be deemed to require Borrower to pay interest in an amount in excess of any applicable usury law or other legal limitation on interest, and the terms of this Note shall be interpreted to require in each instance the lesser of (a) the amount stated in this Note, and (b) the maximum applicable legal limit.

15. No Waiver; Consents.

Any waiver by City must be in writing and will not be construed as a continuing waiver. No waiver will be implied from any delay or failure by City to take action on account of any default

of Borrower. Consent by City to any act or omission by Borrower will not be construed to be a consent to any other or subsequent act or omission or to waive the requirements for City's consent to be obtained in any future or other instance.

16. Governing Law.

This Note shall be governed by the internal laws of the State of California without regard to conflict of law principles.

17. Representations and Warranties of Borrower.

Borrower hereby warrants and represents to City that:

17.1 Organization and Standing. Borrower is a California legal entity as described in the Agreement, duly organized, qualified to operate in California and validly existing and in good standing under all applicable laws, and has all requisite power and authority to enter into and perform its obligations under this Note, the Agreement, the City Deed of Trust, the City Regulatory Agreement and all other documents executed in connection herewith.

17.2 Enforceability. This Note and all other instruments to be executed by Borrower in connection with the City Loan constitute the legal, valid and binding obligation of Borrower, without joinder of any other party.

17.3 Authorization and Consents. The execution, delivery and performance of this Note and all other instruments to be executed in connection herewith is consistent with the operating agreement, partnership agreement and any articles and bylaws governing Borrower and have been duly authorized by all necessary action of Borrower's members, partners, directors, officers and shareholders.

17.4 Due and Valid Execution. This Note and all other instruments to be executed in connection herewith, will, as of the date of their execution, have been duly and validly executed by Borrower.

17.5 Licenses. Borrower will obtain and maintain all material licenses, permits, consents and approvals required by all applicable governmental authorities to own and operate the Project.

17.6 Litigation and Compliance. To the best of Borrower's knowledge, there are no lawsuits, other proceedings or investigations pending or affecting the business or the properties of Borrower (other than those as have been previously disclosed in writing to City) which could materially impair its ability to perform its obligations under this Note, nor is Borrower in violation of any laws or ordinances which could materially impair Borrower's ability to perform its obligations under this Note.

17.7 Default. To Borrower's current actual knowledge, there are no facts now in existence which would, with the giving of notice or the lapse of time, or both, constitute an "Event of Default" hereunder, as described in Section 10.

17.8 No Violations. To the best of Borrower's knowledge, the execution and delivery of this Note, the Agreement and all other documents executed or given thereunder, and the performances hereunder and thereunder by Borrower, as applicable, will not constitute a breach of or default under any instrument or agreement to which Borrower may be a party nor, to the best of Borrower's knowledge, will the same constitute a breach of or violate any law or governmental regulation.

18. Approvals.

Any review or approval of any matter by City or any City official or employee under this Note or pursuant to the Agreement shall be solely for the benefit of City, and neither Borrower nor any other person shall rely upon such review or approval as an indication of the wisdom, soundness, safety, appropriateness, or presence or absence of any matter. Without limiting the generality of the foregoing, Borrower and not City shall be solely responsible for assuring compliance with laws, the suitability of the Site for the Project, the adequacy of the plans, and the safety of the Project construction site, the completed Project, and the operation thereof.

19. Waiver.

Subject to Section 5, Borrower agrees that it will still be liable for repayment of this Note, even if the holder hereof does not follow the procedures of presentment, protest, demand, diligence, notice of dishonor and of nonpayment, which requirements are hereby waived. Failure of City or other holder hereof to exercise any right or remedy hereunder shall not constitute a waiver of any future or other default. No acceptance of a past due installment or indulgence granted from time to time shall be construed to be a waiver of, or to preclude the exercise of, the right to insist upon prompt payment thereafter or to impose late charges retroactively or prospectively, or to waive or preclude the exercise of, the right to insist upon prompt payment thereafter or to impose late charges retroactively or prospectively, or to waive or preclude the exercise of any other rights which City may have.

IN WITNESS WHEREOF, Borrower has executed this Note as of the date and year first above written.

_____ LP, a California limited partnership,

By: _____ LLC, a California limited liability company, Managing General Partner

Dated: _____

By: Jamboree Housing Corporation, a California nonprofit public benefit corporation, Manager

By: _____

Name: _____
Title: _____

ATTACHMENT NO. 6
CITY DEED OF TRUST
[SEE FOLLOWING DOCUMENT]

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: City Manager

[Free Recording Requested
Government Code Sections 6103 and 27383]

LEASEHOLD DEED OF TRUST WITH ASSIGNMENT OF RENTS

This LEASEHOLD DEED OF TRUST, dated as of _____, _____ for identification purposes only, is made by and among _____ LP, a California limited partnership (“**Trustor**”), FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation (“**Trustee**”), and CITY OF COSTA MESA, a California municipal corporation (“**Beneficiary**”).

Trustor grants, transfers and assigns to Trustee in trust, upon the trusts, covenants, conditions and agreements and for the uses and purposes hereinafter contained, with power of sale, and right of entry and possession, all of its title and interest in that real property located at [TBD] W. 19th Street (APN [TBD]), in the City of Costa Mesa, County of Orange, State of California, as more particularly described in the legal description in Exhibit A attached hereto and incorporated herein by this reference (collectively, the “**Site**”).

Together with Trustor’s interest in all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Site; and

Together with the rents, issues and profits thereof; and together with all buildings and improvements of every kind and description now or hereafter erected or placed thereon, and all fixtures, including but not limited to all gas and electric fixtures, engines and machinery, radiators, heaters, furnaces, heating equipment, laundry equipment, steam and hot-water boilers, stoves, ranges, elevators and motors, bathtubs, sinks, water closets, basins, pipes, faucets and other plumbing and heating fixtures, mantles, cabinets, refrigerating plant and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, and all shades, awnings, screens, blinds and other furnishings, it being hereby agreed that all such fixtures and furnishings shall to the extent permitted by law be deemed to be permanently affixed to and a part of the realty; and

Together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein; and

Together with all plans, drawings, specifications, and articles of personal property now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Site which are necessary to the completion and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building,

or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner.

To have and to hold the property hereinbefore described (including the Site and all appurtenances), all such property being referred to collectively herein as the “**Property**,” to Trustee, its successors and assigns forever.

FOR THE PURPOSE of securing (1) payment of indebtedness of Trustor to the Beneficiary in the principal sum of Seven Hundred Thousand Dollars (\$700,000) (the “**City Loan**”), evidenced by a promissory note dated on or about the same date hereof between Trustor and Beneficiary (the “**City Loan Note**”), together with all sums due thereunder including interest and other charges; (2) the performance of each agreement of Trustor in this Deed of Trust and the City Loan Note, (3) monetary repayment obligations of Trustor in that certain Affordable Housing / Disposition and Development Agreement dated on or about _____, 2025 (the “**AH/DDA**”), and (4) monetary repayment obligations of Trustor in that certain Regulatory Agreement and Declaration of Covenants and Restrictions entered into by and between Trustor and Beneficiary on or about the same date hereof (the “**City Regulatory Agreement**” and, collectively, the “**City Loan Documents**”). Said City Loan Note and all of its terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances of the City Loan or other loan by City evidenced by any note reciting that it is secured hereby.

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

1. That it will pay the City Loan Note(s) at the time and in the manner provided therein;
2. That it will 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, namely, as affordable senior rental housing;
3. That the City Loan Note is incorporated herein and made a part of this Deed of Trust. Upon default under the City Loan Note or this Deed of Trust, Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable;
4. That all rents, profits and income from the Property covered by this Deed of Trust are hereby assigned to Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no Event of Default exists hereunder, to collect such rents, profits and income;
5. That upon an Event of Default hereunder, 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 in writing from time to time by Beneficiary, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies, in the amount of the replacement value of the improvements. Such policies shall be endorsed with a standard mortgage clause with loss payable to Beneficiary subordinate to the rights and interest of the beneficiary of the deed of trust securing the Senior Loan, as described in paragraph 31, below) and certificates thereof together with copies of original policies shall be deposited with Beneficiary;

7. To pay, before delinquency, any taxes and assessments affecting said Property when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof which appear to be prior or superior hereto, all costs, fees and expenses of this Trust unless exemption is obtained therefrom;

8. To keep said Property in good condition and repair, 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 (unless contested in good faith if Trustor provides security satisfactory to Beneficiary that any amounts found to be due will be paid and no sale of the Property or other impairment of the security hereunder will occur); to comply with all laws affecting said Property or requiring any alterations or improvements to be made thereon; 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 alteration of or addition to the buildings or improvements hereafter constructed in or upon said Property without the consent of 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 attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear;

10. Should Trustor fail 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. 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 counsel's reasonable fees;

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments following Beneficiary's written notice to Trustor and expiration of a ten (10) day cure period. All such payments made by Beneficiary shall be added to the principal sum 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 rate specified in the City Loan Note;

13. That the City Loan advanced hereunder is to be used in the development of the Property; and upon the failure of Trustor to keep and perform such covenants following written notice and expiration of the applicable cure period (provided; however, that if the failure by Trustor is the type of failure for which the City Loan Note expressly states that a notice requirement and cure period shall not apply, then no notice and cure shall be required under this Deed of Trust), the principal sum and all arrears of interest, and other charges provided for in the City Loan Note shall, at the option of Beneficiary, become due and payable, anything contained herein to the contrary notwithstanding;

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 (other than the lien of a deed of trust recorded prior in time and right to this Deed of Trust and/or the lien of a deed of trust to which Trustor has expressly agreed to subordinate the lien of this Deed of Trust) except as permitted in the AH/DDA or otherwise authorized by Beneficiary, 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 the Property;

15. That any and all improvements made or about to be made upon the Property, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other 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;

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of Beneficiary a charge not to exceed that permitted by law for providing a statement regarding the obligation secured by this Deed of Trust as provided by section 2954, Article 2, Chapter 2, Title 14, Division 3 of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Subject to any notice and cure rights under the AH/DDA and this Deed of Trust and the right of any Senior Lender, if the construction of any improvements as herein referred to shall not be carried on with reasonable diligence, or shall be discontinued at any time for any reason other than events of Force Majeure pursuant to Paragraph 36 hereof, Beneficiary, after due notice to Trustor or any subsequent owner, and subject to the rights of any Senior Lender, is hereby invested with full and complete authority to enter upon the Property, employ watchmen to protect such improvements from depredation or injury and to preserve and protect the personal property therein, and to continue any and all outstanding contracts for the erection and completion of said building or buildings, to make and enter into any contracts and obligations wherever necessary, either in its own name or in the name of Trustor, and to pay and discharge all debts, obligations and liabilities incurred thereby. All such sums so advanced by Beneficiary (exclusive of advances of the principal of the indebtedness secured hereby) shall be added to the principal of the indebtedness secured hereby and shall be secured by this Deed of Trust and shall be due and

payable on demand;

18. Subject to the rights of any Senior Lender, in the event of any fire or other casualty to the Project or eminent domain proceedings resulting in condemnation of the Project or any part thereof, Trustor shall have the right (but not the obligation) to rebuild the Project, and to use all available insurance or condemnation proceeds therefor, provided that (a) such proceeds are sufficient to rebuild the Project in a manner that provides adequate security to Beneficiary for repayment of the City Loan or if such proceeds are insufficient then Trustor shall have funded any deficiency, (b) Beneficiary shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material default then exists under the City Loan Note or this Deed of Trust. If the casualty or condemnation affects only part of the Project and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the City Loan in a manner that provides adequate security for repayment of the remaining balance of the City Loan. The rights of the Beneficiary to any insurance proceeds or condemnation awards pursuant to this paragraph 18 are and shall be subject to the prior right to any insurance proceeds or condemnation awards of the beneficiary of the deed of trust securing the Senior Loan, as described in paragraph 31;

19. Upon default by Trustor in making any payments provided for herein or in the City Loan Note secured hereby, and if such default is not made good within the applicable notice and cure period contained in this Deed of Trust, or if Trustor shall fail to perform any covenant or agreement in this Deed of Trust within notice and cure period contained in this Deed of Trust, 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 Trustor's leasehold interest in 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, the City Loan Note and all documents evidencing expenditures secured hereby;

20. Subject to the rights of any Senior Lender, 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 Trustor's interest in 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 interest 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 Trustor's interest in 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. 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 rate specified in the City Loan Note; (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 upon surrender of this Deed of Trust and the City Loan Note 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 successor to Beneficiary’s rights, powers, and responsibilities, and any future owner and holder including pledgees, of the City Loan Note secured hereby. 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 each 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, 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 copies of any notice of default and of any notice of sale hereunder be mailed to it at:

Prior to completion of construction:

c/o Jamboree Housing Corporation
17701 Cowan Ave., Suite 200
Irvine, CA 92614

Attn: Executive Vice President and
Chief Development Officer

Following completion of construction:

c/o Jamboree Housing Corporation
17701 Cowan Ave., Suite 200
Irvine, CA 92614
Attn: Asset Management

With a copy to the limited partner of Trustor:

28. Trustor agrees, at any time after receipt of a written request from Beneficiary, to furnish to Beneficiary a detailed statement 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 Property and their use as may be requested by Beneficiary.

29. The full principal amount outstanding plus accrued but unpaid interest thereon, shall be due and payable on the earlier to occur of the following:

(a) Sale, transfer, assignment or refinancing of the Property as provided further in this paragraph 29; unless: (i) in the case of a sale in which the sale proceeds are insufficient to repay in full the City Loan, the purchaser assumes the balance of the City Loan in accordance with the terms of the City Loan Note; or (ii) in the case of a refinancing in which the refinancing proceeds are insufficient to repay in full the City Loan, the Borrower remains obligated pursuant to the terms of the Note.

(b) In order to induce Beneficiary to make the loan evidenced hereby, Trustor agrees that in the event of any transfer of the Property which is not permitted pursuant to the AH/DDA without the prior written consent of Beneficiary (other than a transfer resulting from a foreclosure, or conveyance by deed in lieu of foreclosure, by the holder of the deed of trust securing the Senior Loan), Beneficiary shall have the absolute right at its option, without prior demand or notice, to declare all sums secured hereby immediately due and payable. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Beneficiary may grant or deny such consent in its reasonable discretion and, if consent should be given, any such transfer shall be subject to this paragraph 29, and any such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein. Such assumption shall not, however, release Trustor from any liability thereunder without the prior written consent of Beneficiary.

(c) As used herein, “transfer” includes the sale, agreement to sell, transfer or conveyance of the Property, or any portion thereof or interest therein, whether voluntary, involuntary, by operation of law or otherwise, the execution of any installment land sale contract or similar instrument affecting all or a portion of the Property, or the lease of all or substantially all of the Property. “Transfer” shall not include the leasing of individual residential units on the Property, for the avoidance of doubt, or any transfers of the limited partnership interests in Trustor or any replacement of a general partner of Trustor by its limited partner that does not require approval by the Beneficiary pursuant to Section 1.5 of the AH/DDA.

(d) The term “sale” means any transfer, assignment, conveyance or lease (other than to a tenant for occupancy) of the Property and/or the improvements thereon, or any portion thereof, or any interest therein by the Trustor, but excludes any purchase option agreement given to Trustor’s general partner(s). Sale includes a sale in condemnation or under threat thereof. Sale does not include dedications and grants of easements to public and private utility companies of the kind customary in real estate development. Sale shall also not include any transfers of the limited partnership interests in Trustor or any replacement of a general partner of Trustor by its limited partner pursuant to Section 1.5 of the AH/DDA or any other transfer permitted in Section 1.5 of the AH/DDA.

Notwithstanding anything to the contrary contained in this Deed of Trust or in the City Loan Note, prior to declaring any default or taking any remedy permitted under this Deed of Trust, the City Loan Note or applicable law based upon an alleged default, _____ [TO BE INSERTED PRIOR TO RECORDING] (the “**Investor**”) shall have a period of not less than sixty (60) days to cure such alleged default; provided, however, if in order to cure such default the Investor reasonably believes that it must remove a general partner of Trustor, or all of them, pursuant to authority granted under the agreement that sets forth the terms of Trustor’s limited partnership (the “**Partnership Agreement**”), and consistent with Section 1.5 of the AH/DDA, the Investor shall so notify Beneficiary and so long as the Investor is reasonably and diligently attempting to remove the general partner or general partners, the Investor shall have until the date that is thirty (30) days after the effective date of the removal of the general partner or general partners to cure such default.

30. Trustor shall permit Beneficiary and its agents or representatives to inspect the Property at any and all reasonable times, with forty-eight (48) hours advance notice. Inspections shall be conducted so as not to interfere with the tenants’ use and enjoyment of the Property.

31. It is hereby expressly agreed and acknowledged by Trustor and Beneficiary that this Deed of Trust is a second and subordinate deed of trust, and that the City Loan secured hereby, and the City Loan Note are subject and subordinate only to the deed of trust securing a loan to Trustor in original principal amount of approximately _____, in which _____ [TO BE INSERTED PRIOR TO RECORDING] (“**Senior Lender**”) is the Beneficiary, including any loan that refinances the balance of said loan or an assignment of said loan (collectively referred to as the “**Senior Loan**”).

32. For purposes of this Deed of Trust, “**Hazardous Materials**” means any substance, material or waste which is: (1) defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” or “restricted hazardous waste” under any provision of

California or federal law; (2) regulated under California or federal law, including, without limitation, petroleum, asbestos, polychlorinated biphenyls, and/or radioactive materials; or (3) determined by a California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property or risk to the environment.

33. In addition to the general and specific representations, covenants and warranties set forth in this Deed of Trust or otherwise, Trustor represents, covenants and warrants, with respect to Hazardous Materials, as follows:

(a) Trustor agrees to defend, indemnify, protect and hold harmless Beneficiary from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, “Environmental Response Actions” (as defined below), claims, losses, damages, fines, penalties, expenses, “Environmental Response Costs” (as defined below) or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys’ fees and experts’ and consultants’ fees), occurring during and/or caused by Trustor’s use and occupancy of the Property, and resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials at, on, in, beneath or from the Property, including Hazardous Materials which first came to be located on the Property after the date Trustor acquired leasehold title to the Property, except to the extent caused by the gross active negligence or willful misconduct of Beneficiary. Trustor’s defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to notify the applicable governmental authority and/or respond to any governmental inquiry, investigation, claim or demand regarding Hazardous Materials, at Trustor’s sole cost. The term “**Environmental Response Actions**” means any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, state or federal governmental or private party claims, including any claims by Trustor. The term “**Environmental Response Costs**” means any and all costs associated with Environmental Response Actions including, without limitation, any and all fees, fines, penalties and damages.

(b) [INTENTIONALLY OMITTED]

(c) Without limitation of Beneficiary’s rights under this Deed of Trust, after the expiration of any applicable notice and cure period, subject to the rights of any Senior Lender, Beneficiary shall have the right, but not the obligation, to enter onto the Property or to take such other actions as it deems necessary or advisable to clean up, remove, resolve or minimize the impact of, or otherwise deal with, any such Hazardous Materials or any complaint, order, citation or notice with regard to air emissions, water discharges, noise emissions or any other environmental, health or safety matter affecting Trustor or the Property upon its receipt of any notice from any governmental agency with jurisdiction, asserting the existence of any Hazardous Materials or an Environmental Complaint on or pertaining to the Property which, if true, could result in an order, suit or other action against Trustor affecting any part of the Property by any governmental agency or otherwise which, in the sole opinion of Beneficiary, could jeopardize its security under this Deed of Trust. All reasonable costs and expenses incurred by Beneficiary in the exercise of any such rights shall be secured by this Deed of Trust and shall be payable by

Trustor upon demand together with interest thereon at a rate equal to the highest rate payable under the City Loan Note secured hereby.

34. The following shall be an “**Event of Default:**”

(a) Failure of Trustor to pay, when due, principal and interest and any other sums or charges on the City Loan Note, in accordance with the provisions set forth in the City Loan Note and such failure is not cured within ten (10) days after receipt of written notice from Beneficiary; or

(b) A violation of the terms, conditions or covenants of the City Loan Note, this Deed of Trust, or of the monetary repayment obligations in the AH/DDA or City Regulatory Agreement after the expiration of any applicable cure period.

35. Subject to the extensions of time set forth in paragraph 36, and subject to the further provisions of this paragraph 35 and of paragraphs 37 and 38, failure or delay by the Trustor to perform any term or provision of this Deed of Trust constitutes a default under this Deed of Trust. The Trustor must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

(a) The Beneficiary shall give written notice of default to the Trustor with a copy to the limited partners of Trustor for which Beneficiary has been supplied with address for notice, 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.

(b) The Trustor shall not be in default so long as it endeavors to complete such cure, correction or remedy with reasonable diligence, provided such cure, correction or remedy is completed within thirty (30) days after receipt of written notice (or such additional time as may be reasonably necessary to correct the cause).

(c) Any failures or delays by the 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 the Beneficiary in asserting any of its rights and remedies shall not deprive the 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.

36. Notwithstanding specific provisions of this Deed of Trust, 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 or other deities; acts of the public enemy; epidemics; pandemics, 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; 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 shall be for the period of the enforced delay and shall commence to run from the time the party claiming such extension gives notice to the other party, provided notice by the party claiming such extension is given within thirty (30) days after the commencement of the cause. Times of performance under this Deed of Trust may also be extended in writing by the Beneficiary and Trustor.

37. If a monetary event of default occurs under the terms of the City Loan Note or this Deed of Trust, prior to exercising any remedies thereunder Beneficiary shall give Trustor written notice of such default. Trustor shall have a period of ten (10) days after such notice is given within which to cure the default prior to exercise of remedies by Beneficiary under the City Loan Note and this Deed of Trust.

38. If a non-monetary event of default occurs under the terms of the City Loan Note or this Deed of Trust, prior to exercising any remedies hereunder or thereunder, Beneficiary shall give Trustor notice of such default. 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 City Loan Note and this Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Trustor (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as reasonably 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 materially jeopardized by any failure to cure a default.

39. Beneficiary shall provide those limited partners of Trustor for which Beneficiary has been supplied with address for notice with a copy of any written notice provided to Trustor under the terms of the City Loan Documents. In the event of a monetary event of default, Trustor's limited partners shall have a period of ten (10) days after receipt of such notice, or such longer period of time as may be set forth in the City Loan Documents, to cure the default prior to exercise of any remedy by Beneficiary. In the event a non-monetary event of default occurs under any City Loan Document, Trustor's limited partners shall have a period of thirty (30) days after receipt of such notice, or such longer period of time as may be set forth in the City Loan Documents, to cure the default prior to exercise of any remedy by Beneficiary. Notwithstanding anything to the contrary contained in the City Loan Documents, Beneficiary hereby agrees that any cure of any default made or tendered by Trustor's limited partners shall be deemed to be a cure by Trustor and shall be accepted or rejected on the same basis as if such cure were made or tendered by Trustor.

40. Subject to paragraph 36, Trustor, upon the occurrence of an Event of Default as described in paragraph 34 that has not been cured within the applicable cure period set forth in paragraph 37 or 38, shall be obligated to repay the City Loan and, subject to the nonrecourse provision of the City Loan Note, Beneficiary may seek to enforce payment of any and all amounts due by Trustor pursuant to the terms of the City Loan Note.

41. All expenses (including reasonable attorneys' fees and costs and allowances) incurred in connection with an action to foreclose, or the exercise of any other remedy provided by this Deed of Trust, including the curing of any Event of Default, shall be the responsibility of Trustor.

42. Except as provided in paragraph 31, each successor owner of an interest in the Property, other than through foreclosure, deed in lieu of foreclosure or an owner who takes an interest in the Property after a foreclosure has occurred, shall take its interest subject to this Deed of Trust.

43. Notwithstanding anything to the contrary herein, Beneficiary agrees that this Deed of Trust is and shall be subordinate to any extended low-income housing commitment (as such term is defined in section 42(h)(6)(B) of the Internal Revenue Code) (the “**Extended Use Agreement**”) recorded against the Property; provided that such Extended Use Agreement, by its terms, will terminate upon foreclosure or upon a transfer of the Property by instrument in lieu of foreclosure in accordance with and subject to the terms of section 42(h)(6)(E) including the “3-year” rule pursuant to section 42(h)(6)(E)(ii).

44. Beneficiary agrees to subordinate this Deed of Trust to any deed of trust evidencing a loan which is used, in whole or in part, to refinance the Construction Loan, the Take-Out Loan or any subsequent loan used to refinance said refinancing loan (each a “**Refinancing Loan**”) provided that the original principal amount of any such Refinancing Loan shall not be more than the greater of (a) the lesser of (i) eighty percent (80%) of the fair market value of the Project as determined by the lender of such Refinancing Loan; and (ii) the amount which results in a debt service coverage ratio for the Refinancing Loan that is equal to or greater than 1.15:1 as determined by the lender for such Refinancing Loan; and (b) the amount necessary to cause reconveyance of the loan being refinanced, including payment of (1) all costs [i.e., escrow, legal, title, etc.] of the refinance, (2) any deferred developer fee, (3) any completion operating deficit loans, (4) any proceeds that are required to be paid to another soft lender, provided the loan made by such soft lender is contemplated in the Project Budget, (3) amounts reserved for any repairs or capital improvements to the Project, (4) amounts required to be reserved by the refinancing lender and (5) amounts paid to acquire or redeem the interest of Borrower’s limited partner; and provided further that nothing herein shall be deemed to subordinate or affect the affordability covenants of the AH/DDA or the City Regulatory Agreement. Any deed of trust securing any Refinancing Loan shall hereinafter be referred to as the “**Refinancing Deed of Trust**”. Beneficiary hereby agrees to subordinate this Deed of Trust to any Refinancing Deed of Trust, and understands that in reliance upon and in consideration of this subordination, specific loans and advances are being and will be made, and, in connection therewith, specific monetary and other obligations are being and will be entered into, which would not have been made or entered into but for reliance upon this Section. Beneficiary will, at any time upon sixty (60) days written request from Trustor, execute a further specific subordination agreement reasonably required by the lender of the Refinancing Loan subordinating this Deed of Trust to any Refinancing Deed of Trust. Any such specific subordination agreement shall be deemed reasonable if it is substantially similar to the form of subordination agreement executed by Beneficiary in connection with the Construction Loan or the Take-Out Loan.

[End of document – Signature page follows]

LP, a
California limited partnership,

By: _____ LLC, a
California limited liability company,
Managing General Partner

Dated: _____

By: Jamboree Housing Corporation, a
California nonprofit public benefit
corporation, Manager

By: _____
Name: _____
Title: _____

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 Orange)

On _____, before me, _____,
(insert name and title of the officer)

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.

Signature _____

(Seal)

EXHIBIT “A”

LEGAL DESCRIPTION OF THE PROPERTY

[To be inserted]

ATTACHMENT NO. 7

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

[SEE FOLLOWING DOCUMENT]

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Costa Mesa
77 Fair Drive
Cosa Mesa, California 92626
Attn: City Manager

(Space Above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code § 27383)

**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 _____ (“**Effective Date**”), by and between the CITY OF COSTA MESA, a California municipal corporation (“**City**”) and _____ LP, a California limited partnership (“**Developer**”).

RECITALS:

A. Developer is the owner of a leasehold interest in that certain real property located at [TBD] W. 19th Street (APN _____), in the City of Costa Mesa, County of Orange, State of California, as more particularly described in the legal description in Exhibit “A” attached hereto and incorporated herein by this reference (collectively, the “**Site**”).

B. Pursuant to an Affordable Housing / Disposition and Development Agreement entered into by and between City and Developer, dated _____, 2025 (the “**AH/DDA**”), City has agreed to provide financial assistance to Developer in the form of (i) a \$1 per year lease of the Site, and (ii) a deferral of permit and development impact fees in an amount up to Seven Hundred Thousand Dollars (\$700,000) (the “**City Loan**”), and Developer has agreed to construct on the Site an affordable rental apartment complex consisting of not less than sixty (60) but up to seventy (70) units (the “**Project**”). The AH/DDA requires Developer to enter into this Agreement, which provides, among other requirements, that with the exception of the one (1) “Management Unit,” all of the apartment units within the Project be rented to and occupied by “Eligible Tenants” (as those terms are defined in Article 1.0 below).

C. Reference is also made to the following documents, of even date herewith:

(i) Promissory Note, by Developer as “Borrower” in favor of the City as lender (“**City Note**”). The City Note evidences the City Loan.

(ii) Leasehold Deed of Trust with Assignment of Rents, by and between Developer as “Trustor” and City as beneficiary, and recorded against Developer’s leasehold interest in the Site in the Official Records of the County of Orange (“**City Deed of Trust**”). The

City Deed of Trust secures (a) repayment of the City Note, and (b) performance of Developer's obligations hereunder.

The AH/DDA, the City Note and the City Deed of Trust are referred to herein collectively as the "City Agreements."

D. To assist Developer with financing the Project, Developer has applied for and been awarded an allocation of 9% low income housing tax credits from the Tax Credit Allocation Committee (the "TCAC") pursuant to section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code, sections 17057.5, 17058, 23610.4, 23610.5 and California Health and Safety Code section 50199, *et seq.* (the "Tax Credits"). As a condition to obtaining the Tax Credits, Developer will be required to enter into a regulatory agreement with TCAC (the "Tax Credit Regulatory Agreement"), with such agreement to be recorded in the Official Records of the County of Orange.

E. Pursuant to the City Agreements, Developer has agreed to develop the Project on the Site and thereafter maintain the Project with no fewer than sixty (60) but up to seventy (70) units, with all units in the Project except for the one (1) Management Unit, restricted to rental to and occupancy by Eligible Tenants.

F. City and Developer now desire to place restrictions upon the use and operation of the Site, in order to ensure that the Site shall be operated continuously, for a period of ninety-nine (99) years, as an affordable rental apartment complex in accordance with the terms hereof.

AGREEMENT:

NOW, THEREFORE, the Developer and City declare, covenant and agree, by and for themselves, their heirs, executors, administrators, successors and assigns, and all persons claiming under or through them, that, commencing upon the Effective Date and continuing throughout the Term, as follows:

1.0 DEFINITIONS.

Unless specifically defined in this Agreement or by a reference to another one of the City Agreements, capitalized terms in this Agreement shall have the same meanings ascribed in the AH/DDA.

1.1 30% Low Income Household. As used in this Agreement, the term "**30% Low Income Household**" shall mean those households whose household income does not exceed thirty percent (30%) of the Orange County Median Income, as determined in accordance with section 42(g) of the IRC, as published from time to time by TCAC.

1.2 Affiliate. As used in this Agreement, the term "**Affiliate**" shall mean any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the subject entity which, if the subject entity is a partnership or limited liability company, shall include each of the constituent members or general partners, respectively, thereof. The term "control" as used in the immediately preceding sentence means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, of

more than 50% of the voting rights attributable to the shares of the controlled corporation, and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

1.3 Affordable Rent. As used in this Agreement, the term “**Affordable Rent**” shall mean the amount of monthly rent, including a reasonable utility allowance, that does not exceed the maximum allowable rent to be charged Developer and paid by 30% Low Income Households or Low Income Households, as the case may be, occupying the Units as determined in accordance with section 42(g)(2) of the IRC, and as published from time to time by TCAC.

1.4 Approved Budget. As used in this Agreement, the term “**Approved Budget**” has the meaning ascribed in Section 3.14 of this Agreement.

1.5 Capital Improvements. As used in this Agreement, the term “**Capital Improvements**” means all work and improvements with respect to the Site for which costs and expenses may be capitalized in accordance with generally accepted accounting principles as in effect from time to time, consistently applied.

1.6 City. As used in this Agreement, the term “**City**” means the City of Costa Mesa, a California municipal corporation.

1.7 City Manager. As used in this Agreement, the term “**City Manager**” shall mean the individual duly appointed to the position of City Manager of the City, or his or her authorized designee. Whenever an administrative action is required by City to implement the terms of this Agreement, the City Manager, or his or her authorized designee, shall have authority to act on behalf of City, except with respect to matters reserved for City Council determination.

1.8 Construction Loan. As used in this Agreement, the term “**Construction Loan**” shall mean the construction loan for the Project, which shall be in the approximate amount of [Thirty-Four Million Five Hundred Fifty Dollars (\$34,550,000)].

1.9 CPI. As used in this Agreement, the term “**CPI**” means the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for All Urban Consumers, Los Angeles-Long Beach-Anaheim Area, All Items (1982-84=100), or, if the CPI is discontinued, such official index as may then be in existence and which is most nearly equivalent to the CPI.

1.10 Density Bonus Laws. As used in this Agreement, the term “**Density Bonus Laws**” shall be the State density bonus law, California Government Code section 65915, *et seq.*, and the City density bonus ordinance, Costa Mesa Municipal Code section 13-152, *et seq.*, as those sections may be amended from time to time. If there is an irreconcilable contradiction in requirements or limits in the State or City density bonus laws, the State density bonus law shall control; provided, however, that the preceding clause is to be narrowly construed and to the greatest extent possible all provisions in the State and City density bonus laws shall be given operation and effect.

1.11 Eligible Tenant. As used in this Agreement, the term “**Eligible Tenant**” shall mean a household that qualifies as (i) a Senior Household and (ii) a 30% Low Income Household or a Low Income Household, as applicable to this Agreement.

1.12 Foreclosure Event. As used in this Agreement, the term “**Foreclosure Event**” shall mean a foreclosure or deed in lieu of foreclosure or any other action taken pursuant to the deed of trust or other mortgage security instrument securing the Construction Loan, the Take-Out Loan or any Refinancing Loan.

1.13 IRC. As used in this Agreement, the term “**IRC**” shall mean the United States Internal Revenue Code of 1986, as amended.

1.14 Jamboree. As used in this Agreement, the term “Jamboree” shall mean Jamboree Housing Corporation.

1.15 Low Income Household. As used in this Agreement, the term “**Low Income Household**” shall mean those households whose household income does not exceed sixty percent (60%) of the Orange County Median Income, as determined in accordance with section 42(g) of the IRC, as published from time to time by TCAC.

1.16 Management Unit. As used in this Agreement, the term “**Management Unit**” shall have the meaning ascribed in Section 2.6 hereof.

1.17 Operating Expenses. As used in this Agreement, the term “**Operating Expenses**” shall have the meaning ascribed in the City Note.

1.18 Operating Income. As used in this Agreement, the term “**Operating Income**” shall have the meaning ascribed in the City Note.

1.19 Orange County Median Income. As used in this Agreement, the term “**Orange County Median Income**” shall mean the median household income for the County of Orange, adjusted for family size, to be determined in accordance with section 42(g) of the IRC, as published from time to time by TCAC.

1.20 Partnership Agreement. As used in this Agreement, the term “**Partnership Agreement**” shall mean the agreement that sets forth the terms of Developer’s limited partnership, as such agreement may be amended from time to time. The Partnership Agreement shall not include provisions which conflict with payments owing to the City pursuant to the City Note.

1.21 Qualified Tax Credit Investor. As used in this Agreement, the term “**Qualified Tax Credit Investor**” shall mean a person or entity who (i) is an experienced limited partner and investor in multifamily housing developments receiving low income housing tax credits issued by the State of California or the United States federal government and (ii) has obtained or is contractually obligated to obtain a limited partnership or limited liability company membership interest in Developer whereby it will receive ninety percent (90%) or more of the Tax Credits generated in connection with the Project. City shall have the right to reasonable prior approval of any person or entity proposed by Developer as the Qualified Tax Credit Investor and of the

terms and conditions of the Partnership Agreement. City shall diligently review any documents and/or proposals submitted by Developer with respect to the proposed Qualified Tax Credit Investor and Partnership Agreement.

1.22 Refinancing Loan. As used in this Agreement, the term “**Refinancing Loan**” shall have the meaning ascribed in Section 27 hereof.

1.23 Released/Indemnified Parties. As used in this Agreement, the term “**Released/Indemnified Parties**” as it relates to any indemnification or release and waiver of claims for the benefit of the City means, City and City’s officials, officers, members, employees, agents, volunteers, and representatives, and all entities, boards, commissions, and bodies related to any of them. For purposes of this Agreement, the term “volunteers” shall mean persons who are not paid employees of City but are subject to a screening process similar to that used for paid employees.

1.24 Restricted Unit Mix. As used in this Agreement, the term “**Restricted Unit Mix**” shall mean the following mix:

- a. Up to Thirty-Five (35) of the one-bedroom Units are restricted to Low Income Households; and
- b. Up to Thirty-Three (33) of the one-bedroom Units, and one (1) two-bedroom Unit are restricted to 30% Low Income Households.

1.25 Senior Household. As used in this Agreement, the term “**Senior Household**” shall mean a household in which at least one member of the household is fifty-five (55) years of age or older and each other resident in the same dwelling unit is a “qualified permanent resident,” a “permitted health care resident,” (as those terms are defined in California Civil Code sections 51.3(b), or a person under 55 years of age whose occupancy is permitted under California Civil Code section 51.3(b)(2).

1.26 “**Social Services Fee**” shall mean a minimum of approximately Two Thousand Two Hundred Three Dollars (\$2,203) per Unit per year, increasing annually by three percent (3%), which are to be set aside and used exclusively for the Social Services to be provided to the residents of the Project.

1.27 Tax Credit Program. As used in this Agreement, the term “**Tax Credit Program**” shall mean the low-income housing tax credit program authorized pursuant to section 42 of the IRC, California Health and Safety Code sections 50199.6-50199.19, Revenue and Taxation Code sections 17057.5, 17058, 23610.4, 23610.5, and applicable federal and State regulations.

1.28 Tax Credits. As used in this Agreement, the term “**Tax Credits**” shall mean the low income housing tax credits granted by TCAC for the Project pursuant to section 42 of the IRC and/or California Revenue and Taxation Code, sections 17057.5, 17058, 23610.4, 23610.5 and California Health and Safety Code section 50199, *et seq.*

1.29 Tax Credit Regulatory Agreement. As used in this Agreement, the term “**Tax Credit Regulatory Agreement**” shall have the meaning ascribed in Recital D of this Agreement.

1.30 TCAC. As used in this Agreement, “TCAC” shall mean the California Tax Credit Allocation Committee.

1.31 Term. As used in this Agreement, the term “Term” shall mean a period of ninety nine (99) years, commencing on the date all of the Units have been rented to and are occupied by Eligible Tenants (except the Management Unit).

1.32 Unit. As used in this Agreement, the term “Unit” or “unit” shall mean a rental apartment dwelling unit on the Site. The Units are comprised of between Fifty Eight (58) and Sixty-Eight (68) one-bedroom Units and one (1) two-bedroom Unit (not including the two (2) bedroom Management Unit).

2.0 RESIDENTIAL RENTAL PROPERTY.

2.1 Construction of the Project on the Site. Developer shall construct the Project on the Site in accordance with the AH/DDA, including the Schedule of Performance set forth therein, for the purpose of providing the Units described herein and therein. Commencing on the Effective Date and continuing until expiration of the Term, the Project shall be owned, managed, and operated as a rental apartment project, with each of the Units except the Management Unit rented to and occupied by Eligible Tenants at Affordable Rent, as provided in this Agreement.

2.2 Facilities. All of the Units in the Project shall contain facilities for living, sleeping, eating, cooking and sanitation in accordance with this Agreement, the AH/DDA, and all of the permits and approvals for the Project.

2.3 Residential Use. Without the City’s prior written consent, which consent may be given or withheld in its sole and absolute discretion, none of the Units in the Project will at any time be utilized on a transient basis or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, medical treatment facility, sanitarium, sober living home, or trailer court or park, nor shall the Units be used as a place of business except as may otherwise be allowed by applicable law.

2.4 Conversion of Units. No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Developer take any steps in connection with the conversion to such ownership or uses to condominiums, or to any other form of ownership, without the prior written approval of City which approval may be given or withheld in its sole and absolute discretion.

2.5 No Preference. All of the Units will be available for rental in accordance with the terms of this Agreement, and the Developer shall not give preference to any particular class or group of Eligible Tenants in renting the Units in the Project, except as provided in Section 3.4 below.

2.6 Resident Manager and Staff Unit. Notwithstanding anything to the contrary in this Agreement, one (1) of the two-bedroom units at the Project may be occupied by on-site management (the “Management Unit”).

2.7 Liability of Developer. Developer and any manager it employs shall not incur any liability under this Agreement as a result of fraud or intentional misrepresentation by a tenant.

3.0 OCCUPANCY OF RESTRICTED UNITS BY ELIGIBLE TENANTS.

Developer hereby represents, warrants, and covenants as follows:

3.1 Occupancy Levels. Except as expressly provided herein, throughout the term of this Agreement, the Units shall be continuously occupied or held vacant and available for occupancy at Affordable Rent for Eligible Tenants in accordance with the Restricted Unit Mix. Maximum occupancy for each Unit shall be two (2) persons for each bedroom in the Unit plus one (1) additional person; and minimum occupancy for each Unit shall be no less than one (1) person per bedroom in the Unit.

3.2 Occupancy By Eligible Tenant. A Unit occupied by an Eligible Tenant who qualified as an Eligible Tenant at the commencement of the occupancy shall be treated as occupied by an Eligible Tenant throughout their tenancy. A Unit previously occupied by an Eligible Tenant and then vacated shall be considered occupied by an Eligible Tenant until the Unit is reoccupied, provided Developer uses its best efforts to re-lease the vacant Unit to an Eligible Tenant in compliance with the Restricted Unit Mix. Any vacated Unit shall be held vacant until re-leased to an Eligible Tenant. Developer shall take the following actions, as necessary, to locate Eligible Tenants for the Project: (i) notification to the City of the available Unit; and (ii) advertisement of the available Unit in a newspaper of general circulation in the City.

3.3 Income Computation and Certification. Immediately prior to an Eligible Tenant's occupancy of a Unit, Developer shall obtain an Income Computation and Certification Form in the form attached hereto and incorporated herein as Exhibit "B", or on a similar form required by TCAC (the "**TCAC Income Certification Form**") if the TCAC Income Certification Form requires inclusion of the same information as required in Exhibit "B", from each such Eligible Tenant dated no more than ninety (90) days prior to the date of initial occupancy in the Project by such Eligible Tenant. In addition, Developer shall provide such further information as may be reasonably required in the future by the City for purposes of verifying a tenant's status as an Eligible Tenant. Developer shall use good faith efforts to verify that the income provided by an applicant is accurate by taking the following steps as a part of the verification process: (i) obtain three (3) pay stubs for the most recent pay periods; (ii) obtain a written verification of income and employment from the applicant's current employer; (iii) obtain an income verification form from the Social Security Administration, California Department of Social Services, and/or California Employment Development Department if the applicant receives assistance from any of said agencies; (iv) if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other evidence and/or verification of such applicant's total income received during the calendar year from any source, taxable or nontaxable, or such other information as is satisfactory to the City. Developer shall maintain in its records each Income Computation and Certification Form obtained pursuant to this section for a minimum of five (5) years.

3.4 Rental Priority. Subject to (i) the requirements of any funding obtained by Developer to operate and/or develop the Project that has been approved by City, including the Tax Credit Program, and (ii) any applicable Federal, State or local law (including, without

limitation, fair housing laws), during the term of this Agreement, Developer shall use its commercially reasonable efforts to lease the Units to credit-worthy Eligible Tenants in the following order of priority: (a) who have been or will be displaced by a City activity, or an activity of any other public agency with jurisdiction in all or any portion of the City of Costa Mesa; or (b) who live and/or work in the City of Costa Mesa. Developer shall, and City may, maintain a list (the “**Housing List**”) of persons who have notified Developer and/or City of their desire to rent a Unit in the Project who qualify as a Senior Household and who have incomes which would qualify them as an Eligible Tenant, and Developer shall offer to rent Units on the above-referenced priority basis; provided, however, that Developer shall not be required to prequalify persons on the Housing List. Should multiple tenants be equally eligible (as to income, credit history, and other nondiscriminatory criteria) and qualified to rent a Unit, Developer shall rent available Units to Eligible Tenants on a first-come, first-served basis. For purposes of this Section 3.4 an Eligible Tenant shall be deemed to live in the City of Costa Mesa if their current residence is located within the City (e.g., street address to be provided), or if they are currently homeless in Costa Mesa as demonstrated by records of the City, or a local social services organization, and an Eligible Tenant shall be deemed to work in the City of Costa Mesa if they work in the City for at least twenty (20) hours per week.

3.5 Recertification. Within sixty (60) days prior to the first anniversary date of the occupancy of a Unit by an Eligible Tenant, and on each anniversary date thereafter, Developer shall recertify the income of such Eligible Tenant by obtaining a completed Income Recertification Form, in the form attached hereto and incorporated herein as Exhibit “C”, or on a similar form required by TCAC (the “**TCAC Income Recertification Form**”) if the TCAC Income Recertification Form requires inclusion of the same information as required in Exhibit “C”, based upon the current income of each known occupant of the Unit; provided, however, that if Developer obtains the Tax Credits, and the TCAC Regulatory Agreement requires Developer to obtain a recertification form which requires inclusion of the same information as required in Exhibit “C”, then Developer shall not be deemed to be in default hereunder if during the term of the TCAC Regulatory Agreement Developer obtains from each Eligible Tenant the TCAC recertification form.

3.6 Determination of Affordable Rent. All Units shall be rented at an Affordable Rent.

3.6.1 Rent Schedule and Utility Allowance. Developer shall submit to the City Manager for review and approval the Affordable Rents proposed by Developer for all of the Units. In determining the Affordable Rents, Developer shall utilize the maximum monthly allowances for utilities and services that is published by the County of Orange. City shall approve such proposal if it complies with the terms of this Agreement. The maximum monthly rent must be recalculated by Developer and submitted to the City annually. City shall be deemed to approve any proposed rent schedule if (a) the proposed rents constitute an Affordable Rent and (b) City fails to respond within ten (10) business days following Developer’s submittal.

3.6.2 Adjustment of Rent. Rent may change as changes in the applicable gross rent amounts, the income adjustments, or the monthly allowance for utilities and services warrant. Any increase in rents is subject to the provisions of outstanding leases. Developer must provide the City and all households occupying the Units not less than thirty (30) days prior written notice before implementing any rent increase.

3.7 Loss or Reduction of Rental Subsidy; Effect of Foreclosure.

3.7.1 It is anticipated that the Property will be supported by Project-Based Section 8 rental subsidy payments (the “**Rental Subsidy**”). If, during the Term, (a)(1) any change in federal law or regulations occurs, (2) any action (or inaction) by Congress or any federal or State agency occurs, or (3) any other circumstances exist which results in a reduction, termination, or nonrenewal of the Rental Subsidy through no fault of Developer, such that the Rental Subsidy as it exists as of the Effective Date is no longer available (or available in a lesser amount) (any of the foregoing, a “**Rental Subsidy Event**”), or (b) a Foreclosure Event occurs, Developer may request approval of City to (i) allow Low Income Households to occupy the Units originally restricted for occupancy by 30% Low Income Households (the “**30% Units**”), and (ii) increase the rent on one or more of the 30% Units, to rents that are affordable to Low Income Households, as outlined herein.

3.7.2 The income limit and rent increases described in subsections (i) and (ii) in Section 3.7.1 above are subject to the following requirements: concurrently with the request, Developer shall provide City with (a) evidence of the anticipated reduction, termination, or nonrenewal of the Rental Subsidy (applicable only on the occurrence of a Rental Subsidy Event), (b) a management plan for the Project for the City’s approval (such approval not to be unreasonably withheld or delayed), showing the impact of the loss or reduction of the Rental Subsidy (applicable only on the occurrence of a Rental Subsidy Event), (c) a proposed operating budget reflecting the rent increases (the “**Operating Budget**”), and (d) a description of Developer’s efforts to obtain alternate sources of rental subsidies (applicable only on the occurrence of a Rental Subsidy Event), and, if the foregoing requirements (as applicable) are completed to City’s reasonable satisfaction, subject to the limitations set forth in the immediately succeeding sentence, City shall use good faith diligent efforts to identify other locations within the City that would replace some or all of the 30% Units for purposes of maintaining compliance with City’s Housing Element and applicable State law, and if such units are available, shall approve Developer’s request to increase the income limits and rent restrictions applicable to the 30% Units. The number of 30% Units subject to the rent increase and the amount of the proposed increase may not be greater than (i) the number or amount required to ensure that the Project generates sufficient income to cover its operating costs, required deposits to replacement reserves, and debt service payments on approved financing as shown on the Operating Budget (together, the “**Minimum Liabilities**”), and (ii) such amount as is necessary for the Project to maintain a debt service coverage ratio of at least 1.15 to 1.00 (the “**Debt Service Coverage Ratio**”). As used herein, “Debt Service Coverage Ratio” means, for any period, the ratio of (x) net operating income for such period to (y) all principal and interest payments due and payable during such period, regardless of whether the Project is generating sufficient cash flow.

3.7.3 Upon a Rental Subsidy Event, Developer hereby agrees to use good faith commercially reasonable efforts to obtain alternative sources of rental subsidies and shall provide City with quarterly progress reports on efforts to obtain alternative sources of rental subsidies that would allow the rents to be reduced. Upon receipt of any alternative rental subsidies, Developer shall reduce the rents as much as possible with the goal of reverting the rents to their original levels as set forth herein to the extent that the alternative rental subsidies provide sufficient income to cover the Minimum Liabilities of the Project as shown on the Operating Budget and to maintain a Debt Service Coverage Ratio of 1:15 to 1.00.

3.7.4 The following additional requirements apply with respect to any rent increases made pursuant to the terms of this Section 3.7:

(i) Developer shall provide tenants with at least sixty (60) days' prior written notice of any such rent increase and shall notify each tenant that if they have received a tenant-based voucher from the Orange County Housing Authority or any other governmental entity they may use such voucher to pay the rent for their Unit; and

(ii) No later than sixty (60) days prior to the proposed implementation of any such rent increase, Developer shall submit to the City a schedule of any proposed rent increase for approval by City (such approval not to be unreasonably withheld or delayed). City will disapprove a rent increase if it does not comply with the restrictions set forth herein.

3.8 Certification of Continuing Program Compliance. During the term of this Agreement, on or before each December 1 following the Effective Date, Developer shall annually advise the City of the occupancy of the Project during the preceding calendar year by delivering a Certification of Continuing Program Compliance in the form attached hereto and incorporated herein as Exhibit "E", stating (i) the Units of the Project which have been rented to and are occupied by Eligible Tenants and (ii) that to the knowledge of Developer either (a) no unremedied default has occurred under this Agreement, or (b) a default has occurred, in which event said certification shall describe the nature of the default and set forth the measures being taken by the Developer to remedy such default.

3.9 Maintenance of Records. Developer shall maintain complete and accurate records pertaining to the Units, and shall permit any duly authorized representative of the City, upon forty-eight (48) hours prior notice and during business hours, to inspect the books and records of Developer pertaining to the Project including, but not limited to, those records pertaining to the occupancy of the Units.

3.10 Reliance on Tenant Representations. Each tenant lease shall contain a provision to the effect that Developer has relied on the income certification and supporting information supplied by the tenant in determining qualification for occupancy of the Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease. Each such lease shall also include a lease rider substantially in the form attached hereto and incorporated herein as Exhibit "D" and shall state that occupation of the Unit is subject to the income restrictions described in this Agreement.

3.11 Remedy For Violation of Rental Requirements.

3.11.1 It shall constitute a default for Developer to charge or accept for any Unit rent amounts in excess of the amount provided for in Section 3.6 of this Agreement. In the event that Developer charges or receives such higher rental amounts, Developer shall be required to reimburse the tenant that occupied said Unit at the time the excess rent was received for the entire amount of such excess rent received, provided that such tenant can be found following reasonable inquiry, and to pay to such tenant interest on said excess amount, at the rate of six percent (6%) per annum, for the period commencing on the date the first excess rent was received from said

tenant and ending on the date reimbursement is made to the tenant. For purposes of this Section 3.11, “reasonable inquiry” shall include Developer’s review of information provided by the tenant as part of the tenant’s application and forwarding information provided by the tenant, and Developer’s reasonable attempts to contact the tenant and any other persons listed in either of such documents. If, after such reasonable inquiry, Developer is unable to locate the tenant, Developer shall pay all of such amounts otherwise to be paid to the tenant to the City.

3.11.2 Except as otherwise provided in this Agreement, it shall constitute a default for Developer to knowingly (or without investigation as required herein) initially rent any Unit to a tenant who is not an Eligible Tenant. In the event Developer violates this Section, in addition to any other equitable remedy City shall have for such default, Developer, for each separate violation, shall be required to pay to City an amount equal to (i) the total rent Developer received from such ineligible tenant, in excess of the total rent Developer was entitled to receive for renting that Unit, plus (ii) any relocation expenses incurred by City as a result of Developer having rented to such ineligible person. The terms of this Section shall not apply if Developer rents to an ineligible person as a result of such person’s fraud or misrepresentation.

3.11.3 It shall constitute a default for Developer to knowingly (or without investigation as required herein) rent a Unit in violation of the leasing preference requirements of Section 3.4 of this Agreement. In the event Developer violates this Section, in addition to any other equitable remedy City shall have for such default, Developer, for each separate violation, shall be required to pay City an amount equal to one (1) month of rental charges.

THE PARTIES HERETO AGREE THAT THE AMOUNTS SET FORTH IN THIS SECTION 3.11 (THE “**DAMAGE AMOUNTS**”) CONSTITUTE A REASONABLE APPROXIMATION OF THE ACTUAL DAMAGES THAT CITY WOULD SUFFER DUE TO THE DEFAULTS BY DEVELOPER SET FORTH IN SECTIONS 3.11.1 THROUGH 3.11.3, CONSIDERING ALL OF THE CIRCUMSTANCES EXISTING ON THE EFFECTIVE DATE OF THIS AGREEMENT, INCLUDING THE RELATIONSHIP OF THE DAMAGE AMOUNTS TO THE RANGE OF HARM TO CITY AND ACCOMPLISHMENT OF CITY’S PURPOSE OF ASSISTING IN THE PROVISION OF AFFORDABLE HOUSING TO ELIGIBLE TENANTS THAT REASONABLY COULD BE ANTICIPATED AND THE ANTICIPATION THAT PROOF OF ACTUAL DAMAGES WOULD BE COSTLY OR INCONVENIENT. THE AMOUNTS SET FORTH IN THIS SECTION 3.11 SHALL BE THE SOLE MONETARY DAMAGES REMEDY FOR THE DEFAULTS SET FORTH IN THIS SECTION 3.11 BUT NOTHING IN THIS SECTION 3.11 SHALL BE INTERPRETED TO LIMIT CITY’S REMEDY FOR SUCH DEFAULT TO SUCH A DAMAGES REMEDY AND IN THAT REGARD AND SUBJECT TO THE TERMS OF THE FOLLOWING PARAGRAPH CITY MAY DECLARE A DEFAULT UNDER THE TERMS OF THIS AGREEMENT, THE CITY NOTE OR ANY OTHER OF THE CITY AGREEMENTS. IN PLACING ITS INITIALS AT THE PLACES PROVIDED HEREINBELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY HAS BEEN REPRESENTED BY COUNSEL WHO HAS EXPLAINED THE CONSEQUENCES OF THE LIQUIDATED DAMAGES PROVISION AT OR PRIOR TO THE TIME EACH EXECUTED THIS AGREEMENT.

DEVELOPER'S INITIALS:

CITY'S INITIALS:

Notwithstanding anything to the contrary in this Agreement, City shall have no right to accelerate repayment of the City Loan or commence foreclosure proceedings for any of the defaults described in this Section 3.11 until City has provided notice and an opportunity to cure pursuant to Article 10 and declared an "Event of Default" pursuant to the provisions of said Article 10.

3.12 Tax Credit Regulatory Agreement. Notwithstanding anything contained in this Agreement to the contrary, if and when the Site is subject to the requirements of the Tax Credit Program and there is a conflict between the requirements of the Tax Credit Program and the provisions set forth in this Agreement, then the provisions of the Tax Credit Program shall prevail except that the more restrictive rent (i.e., "**Affordable Rent**" as defined under this Agreement) shall apply and control. Except as provided in this Section, the fact that this Agreement and the Tax Credit Program provide for greater, lesser or different obligations or requirements shall not be deemed a conflict unless the applicable provisions are inconsistent and could not be simultaneously enforced or performed.

3.13 Annual Statements. On each December 1 following the Effective Date, Developer shall deliver to City (i) financial statements of Developer, including a profit and loss statement, and a consolidated statement of changes in financial position of the Project as at the close of and for the immediately preceding fiscal year, all in reasonable detail, certified by an officer or partner of Developer, and (ii) an annual operating statement showing all Operating Income and Operating Expenses, and any other amounts taken into consideration in computing Net Operating Income pursuant to the City Note, certified by an operating officer or manager of the Developer as true and complete and in a format reasonably acceptable to the City Manager.

3.14 Approved Budget. As soon as available and in any event not later than November 1st of each calendar year beginning with the year in which the Project is completed, Developer shall provide City with a detailed projection of Operating Income and budgets of estimated Operating Expenses for the immediately succeeding calendar year (the "**Proposed Budget**") and a detailed cash flow projection for such year. City shall review each Proposed Budget and shall provide any objections thereto to Developer within thirty (30) calendar days following receipt. If City fails to provide objections to a Proposed Budget (or to request additional information pursuant to the following sentence) within such thirty (30) calendar day period, such Proposed Budget shall be deemed approved. During such thirty (30) calendar day period City shall have the right to request additional detail, information and assumptions used in the preparation of the Proposed Budget, and in such event City shall have a period of fifteen (15) business days following receipt of such additional information to review and provide objections to the additional information and Proposed Budget, and in the event City fails to provide objections during such fifteen (15) calendar day period, the Proposed Budget shall be deemed approved. Any Proposed Budget that is expressly approved by City or is deemed approved by City pursuant to the terms of this Section 3.14 shall be referred as an "**Approved Budget**." Developer shall use its commercially reasonable efforts to operate the Site during such calendar year within the Approved Budget.

3.15 Annual Monitoring Payment. On or before May 1 of each year after Developer's completion of the Project, Developer shall pay to City an annual payment in the amount of Fifty Dollars (\$50.00) per Unit, increased annually by the CPI (but not to exceed 3% per annum), to reimburse City for the costs City incurs in monitoring Developer's compliance with the terms of the Ground Lease, the AH/DDA and this Agreement, including but not limited to, the provision of annual budgets, the social services provided, the parking management plan and other City conditions of approval; provided, however, that if Developer completes the Project between January 1 and April 30, Developer's first such reimbursement payment shall not be due and payable until the subsequent May 1. For example, if Developer completes the Project on March 10, 2027, the first reimbursement payment will be due on May 1, 2028.

4.0 MAINTENANCE.

4.1 Maintenance Obligation. Developer agrees to and shall maintain all interior and exterior improvements on the Site, including landscaping, driveways, walkways and parking spaces, in a good and safe condition and repair (and, as to landscaping, in a healthy condition) consistent with other similar, well operated affordable housing developments in Costa Mesa, California and in accordance with all of the permits and approvals for the Project, and all other applicable laws, rules, ordinances, orders, and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having jurisdiction and all their respective departments, bureaus, and officials. City places prime importance on quality maintenance to protect its investment and to ensure that all City-assisted affordable housing projects within the City are not allowed to deteriorate due to below-average maintenance. Normal wear and tear of the Site improvements will be acceptable to City assuming Developer agrees to perform all necessary Site improvements to assure the Site is maintained in good condition. Maintenance requirements for the Site shall include that: (a) no improperly maintained landscaping shall be visible from public rights-of-way, including (i) no trees, shrubbery, lawns, and other plant life dying from lack of water or other necessary maintenance, (ii) no trees, hedges, or shrubbery grown uncontrolled without proper pruning, (iii) no vegetation so overgrown as to be likely to harbor rats or vermin, and (iv) no dead, decayed, or diseased trees, weeds, and/or other vegetation; (b) no yard areas shall be left unmaintained, including (i) no broken or discarded furniture, appliances, or other household equipment stored in yard areas for periods exceeding one (1) week, (ii) no packing boxes, lumber, trash, dirt, or other debris stored in yards for periods exceeding one (1) week in areas visible from public property or neighboring properties, (iii) no unscreened trash cans, bins, or containers stored for unreasonable periods in areas visible from public property or neighboring properties, (iv) no vehicles parked or stored in areas other than approved parking areas; and (v) no required exterior lighting to be inoperable or extinguished; (c) no buildings on the Site may be left in an unmaintained condition, including (i) no violations of state law, Uniform Codes, or City ordinances, (ii) no condition that constitutes an unsightly appearance that constitutes a private or public nuisance, (iii) no broken windows or chipped, cracked, or peeling paint, (iv) no conditions constituting hazards, such as potholes or cracks in the parking area, (v) no conditions inviting trespassers or malicious mischief, and (vi) no graffiti or accumulation of waste or debris. Developer shall make all repairs and replacements necessary to keep the Site improvements in good condition and repair and shall promptly eliminate all graffiti, correct and repair any broken or damaged concrete or asphalt, and replace dead and diseased plants and landscaping with comparable approved materials. In the event that Developer breaches any of the covenants contained in this Section and Developer does not commence to cure such breach

within five (5) business days after written notice from City (with respect to graffiti, debris, waste material, landscaping, and general maintenance) or thirty (30) days after written notice from City (with respect to building improvements), and after commencing the cure to diligently prosecute such cure to completion, then City, in addition to whatever other remedy it may have at law or in equity, shall have the right, but not the obligation, to enter upon the Site and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Site, and to attach a lien on the Site as provided in Section 4.2 below, or to assess the Site, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by City and/or costs of such cure, including a fifteen percent (15%) administrative charge, which amount shall be promptly paid by Developer to City upon thirty (30) days' written notice.

4.2 Lien. If the costs incurred pursuant to Section 4.1 are not reimbursed within thirty (30) days after Developer's receipt of notice thereof the same shall be deemed delinquent, and the amount thereof shall bear interest thereafter at a rate of six percent (6%) per annum until paid. Any and all delinquent amounts, together with said interest, costs and reasonable attorney's fees, shall, upon recordation of a notice of lien against the Property in the Official Records of the County of Orange, California in accordance with applicable law, be a lien and charge, with power of sale, upon the property interests of Developer, and the rents, issues and profits of such property. The priority of such lien shall date from the date of recordation. City may bring an action at law against Developer to pay any such sums or foreclose the lien against Developer's property interests. Any such lien may be enforced by sale by the City following recordation of a Notice of Default of Sale given in the manner and time required by law as in the case of a deed of trust; such sale to be conducted in accordance with the provisions of section 2924, *et seq.*, of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. No lien recorded by City pursuant to this Section 4.2 shall defeat or render invalid the lien of any senior mortgage or deed of trust.

5.0 MANAGEMENT.

5.1 Marketing Plan. Prior to the City's issuance of a Release of Construction Covenants for the Project, Developer shall submit for the approval of the City Manager, which approval shall not unreasonably be withheld, a plan for marketing the rental of the Units (the "**Marketing Plan**"). The Marketing Plan shall include affirmative marketing procedures and requirements. The Marketing Plan shall include a plan for publicizing the availability of the Units within the City in a manner which gives notice to residents of the City, such as notices in any City sponsored newsletter, newspaper advertising in local newspapers and notices in City offices and community centers.

5.2 Long Term Management of the Project. Prior to, and as a condition of, the City's issuance of a Release of Construction Covenants for the Project, Developer shall submit for the reasonable approval of the City Manager a "Management Plan" which sets forth in detail the identity and the duties of the person or entity proposed to be retained by Developer to operate and manage the Project (the "**Property Manager**"), tenant selection criteria, the tenant selection and income certification process, a security system and crime prevention program, the procedures for determining Rent and for the collection of rent, occupancy limits, and the procedures for monitoring of occupancy levels, the procedures for eviction of tenants, the rules and regulations

of the Project and manner of enforcement, the initial standard lease form, and other matters relevant to the management of the Project. Developer may from time to time submit amendments and modifications to the Management Plan for the reasonable approval of the City Manager. The management of the Project shall be in compliance with the Management Plan. City hereby approves Quality Management Group as the initial Property Manager.

5.3 Social Services. Developer shall provide a variety of social services at the Project; such social services are subject to the approval of the City Manager, in his or her reasonable discretion. Developer shall use its commercially reasonable efforts to create a comprehensive social service program that is targeted to the needs of the residents of the Project which may include adult education services and the availability of a bona fide services coordinator or social worker to the tenants. A list of the social services that initially will be provided is attached hereto and incorporated herein as Exhibit “F”. Any substantive change in the scope, amount, or type of supportive services to be provided at the Site shall be subject to prior reasonable approval of City. City shall respond to any such changes within thirty (30) days after submittal to City by Developer. City’s failure to so respond shall be deemed City approval.

5.4 Coordination with Costa Mesa Senior Center. Developer agrees to coordinate with the Costa Mesa Senior Center (the “Center”) regarding the use of community space within the Project for special senior events held by the Center, such as, but not limited to, bingo nights.

5.5 Parking Access and Management Plan. Prior to, and as a condition of, the City’s issuance of a Release of Construction Covenants for the Project, Developer shall submit for the reasonable approval of the City Manager a “Parking Management Plan” which sets forth and implements the parking measures recommended in that certain Parking Demand Analysis prepared by on August 21, 2024, by Linscott, Law & Greenspan, Engineers as LLC Reference No. 2.24.4822.1 for the Project (the “**Parking Management Plan**”). Developer shall be responsible to enforce the Parking Management Plan. Among other provisions, the Parking Management and/or the City Easement Agreement shall set forth the requirements for public access to the Site for pedestrian and vehicular ingress, egress, and parking at no charge, and shall prohibit installation of any physical barrier that would separate the uncovered surface parking spaces on the Site from the adjacent City property on which the Costa Mesa Senior Center is located.

5.6 Gross Mismanagement; Requirement to Replace Property Manager. In the event of “Gross Mismanagement” (as that term is defined below) of the Project, City shall have the authority to require that such Gross Mismanagement cease immediately. City shall provide written notice to Developer of the event(s) of Gross Mismanagement occurring and Developer shall have ten (10) business days after receipt of such notice to commence to cure, correct, or remedy the event(s) of Gross Mismanagement identified in the City’s notice and to notify the City Manager of the steps taken to effect such cure, correction, or remedy, and upon commencing such cure, correction, or remedy to thereafter diligently prosecute such cure, correction, or remedy to completion. If Developer fails to timely commence to cure and to thereafter diligently proceed to complete such cure, then subject to the approval of the senior lender and tax credit investor, City shall have the right to require the immediate replacement of the Property Manager.–For purposes of this Agreement the term “**Gross Mismanagement**” shall mean management of the Project in a manner which materially violates the terms and/or intention of this Agreement to operate an

affordable rental housing complex of the highest standard, and shall include, but is not limited to, the following:

5.6.1 Knowingly leasing a Unit to an ineligible tenant or tenants whose income exceeds the prescribed levels;

5.6.2 Knowingly allowing the tenants to exceed permitted occupancy levels (e.g., two (2) persons per bedroom plus one (1)) without taking immediate steps to stop such overcrowding;

5.6.3 Knowingly allowing a tenant to sublease his or her Unit;

5.6.4 Failing to timely maintain the Project and the Site in the manner required by this Agreement;

5.6.5 Failing to timely submit the reports as required by this Agreement (provided Developer shall have ten (10) business days after receipt of such notice to commence to cure, correct, or remedy);

5.6.6 Fraud in connection with any document or representation relating to this Agreement or embezzlement of Project monies; and

5.6.7 Failing to reasonably cooperate with law enforcement in its attempts to maintain a crime-free environment on the Site.

5.7 Lease Approval. The initial form lease agreement to be used by Developer for the rental of any of the Units (“**Lease Agreement**”), and any changes to such form Lease Agreement regarding the provisions required by this Agreement, including, but not limited to, the provisions required by Section 3.10, to be included in the form Lease Agreement, shall be reasonably approved in advance by the City Manager prior to the initial use of the lease form and prior to the first use of the changed form. City shall provide its approval, conditional approval or disapproval within thirty (30) days after Developer’s submittal to City of any of the foregoing.

5.8 Capital Replacement Reserve. Commencing on the date Developer’s construction loan converts to a permanent loan, Developer shall, or shall cause the Property Manager to, annually set aside a minimum of Three Hundred Dollars (\$300) per Unit per year (for example, for 70 units, the annual amount would be Twenty-One Thousand Dollars (\$21,000) or such increased amount required by TCAC, the Tax Credit Regulatory Agreement, or a lender providing financing approved pursuant to the AH/DDA or by the City Manager, into a capital replacement reserve account (the “**Capital Replacement Reserve**”). Funds in the Capital Replacement Reserve shall be used for Capital Improvements.

As Capital Improvements become necessary, the Capital Replacement Reserve shall be the first source of payment therefor to the extent permitted by all applicable lenders and the tax credit investor (unless insurance proceeds are available).

Funds in the Capital Replacement Reserve account may be distributed to Developer (or others) only upon the prior written approval of the City Manager, which approval may be given

or withheld in the City Manager's reasonable discretion. On or before each December 1st, commencing on the first December 1st after Developer's completion of construction of the Project, Developer shall submit to City, for the immediately preceding year, a reconciliation that sets forth (i) Developer's planned expenditures for Capital Improvements, as reflected in the Approved Budget for said year, (ii) Developer's actual expenditures for Capital Improvements during said year, and (iii) the balance in the Capital Replacement Reserve Account.

The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve Developer of the obligation to undertake necessary capital repairs and improvements and to continue to maintain the Site in the manner prescribed in this Agreement.

6.0 COMPLIANCE WITH LAWS; ENVIRONMENTAL MATTERS.

6.1 Compliance With Laws. Developer shall comply with (i) all ordinances, regulations and standards of the City, any regional governmental entity with jurisdiction over the Project and/or Site, the State of California, and the federal government applicable to the Project and/or Site; (ii) all rules and regulations of any assessment district of the City with jurisdiction over the Project and/or Site; and (iii) all applicable labor standards of California law and federal law; and (iv) the requirements of California law and federal law with respect to the employment of undocumented workers or illegal aliens.

6.2 Indemnity. Developer agrees to defend, with attorneys (i) selected by City, or (ii) at City's election, selected by Developer and reasonably acceptable to City, indemnify, protect and hold harmless the City, in its own capacity, and all of the City's officers, officials, members, employees, agents, volunteers and representatives from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, "Environmental Response Actions" (as defined below), claims, losses, damages, fines, penalties, expenses, "Environmental Response Costs" (as defined below) or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys' fees and experts' and consultants' fees), first occurring during and/or caused by Developer's use and occupancy of the Site, and resulting from or in connection with the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials at, on, in, beneath or from the Site, including Hazardous Materials which first came to be located on the Site after the date Developer acquired leasehold title to the Site, except to the extent caused by the gross active negligence or willful misconduct of City. Developer's defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to notify the applicable governmental authority and/or respond to any governmental inquiry, investigation, claim or demand regarding Hazardous Materials at Developer's sole cost. For the purposes of this Agreement, unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified:

The term "**Hazardous Materials**" shall mean any substance, material or waste which is: (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California or federal law; (2) or is regulated under California or federal law, including, without limitation, petroleum, asbestos, polychlorinated biphenyls, and radioactive materials; (3) or is determined by a California,

federal or local governmental authority to be capable of posing a risk of injury to health, safety or property or a risk to the environment.

The term “**Environmental Response Actions**” shall mean any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, state or federal governmental or private party claims, including any claims by Developer.

The term “**Environmental Response Costs**” shall mean any and all costs associated with Environmental Response Actions including, without limitation, any and all fees, fines, penalties and damages.

The term “**Hazardous Materials Contamination**” shall mean the contamination first occurring on the Site after the date Developer acquired leasehold title to the Site or of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Site by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials first occurring on the Site after the date Developer acquired leasehold title to the Site, except to the extent that such release of Hazardous Materials or toxic substances, or materials and/or waste therefrom were exacerbated or caused by Developer’s activities during its occupancy of the Premises.

The term “**Governmental Requirements**” shall mean all past, present and future laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State of California, the County of Orange, the City of Costa Mesa, or any other political subdivision in which the Site is located, and any other state, county, city, political subdivision, agency, instrumentality or other entity exercising jurisdiction over the Site.

6.3 Duty to Prevent Hazardous Material Contamination. Developer shall take commercially reasonable action to prevent the release of any Hazardous Materials into structures or into the environment in violation of applicable Governmental Requirements. Such precautions shall include compliance with all applicable Governmental Requirements with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with the standards generally applied by apartment complexes in Orange County, California as respects the disclosure, storage, use, removal, and disposal of Hazardous Materials.

6.4 Obligation of Developer to Remediate Premises. Notwithstanding the obligation of Developer to indemnify the Indemnified Parties pursuant to Section 6.2, Developer shall, at its sole cost and expense, promptly take (i) all actions required by any applicable federal, state, regional, or local governmental agency or political subdivision with jurisdiction over the Site or any applicable Governmental Requirements and (ii) all actions necessary to make full use of the Site for the purposes contemplated by this Agreement and the AH/DDA, which requirements or necessity arise from the presence upon, about or beneath the Site of any Hazardous Materials or Hazardous Materials Contamination in violation of applicable Governmental Requirements. Such actions shall include, but not be limited to, the investigation of the environmental condition

of the Site, the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, removal or restoration work.

6.5 Environmental Inquiries. Developer, when it has received any notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, or cease and desist orders related to Hazardous Materials or Hazardous Materials Contamination from a governmental agency with jurisdiction over the Site, or when Developer is required to report to any governmental agency any violation or potential violation of any applicable Governmental Requirement pertaining to Hazardous Materials or Hazardous Materials Contamination, shall concurrently notify the City Manager and provide to him/her a copy or copies, of the environmental permits, disclosures, applications, entitlements or inquiries relating to the Site, the notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements, and reports filed or applications made pursuant to any applicable Governmental Requirement relating to Hazardous Materials and underground tanks, and Developer shall report to the City Manager, as soon as possible after each incident, any unusual, potentially important incidents.

In the event of a responsible release of any Hazardous Materials into the environment in violation of applicable laws, Developer shall, as soon as possible after it becomes aware of the release, furnish to the City Manager a copy of any and all final reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request of the City Manager, Developer shall furnish to the City Manager a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Site including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential.

7.0 INSURANCE.

7.1 Duty to Procure Insurance. Developer, for the term of this Agreement, shall procure and keep in full force and effect or cause to be procured and kept in full force and effect for the mutual benefit of Developer and City, and shall provide City evidence reasonably acceptable to the City Manager, insurance policies meeting the minimum requirements set forth below:

a. Commencing on the Effective Date and continuing throughout the term of this Agreement, the Developer shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to the City Manager, the following policies of insurance:

(i) Commercial General Liability Insurance on a per occurrence basis with limits not less than Three Million Dollars (\$3,000,000) per occurrence. Any general aggregate limit shall apply to this Project only. Such insurance shall be endorsed to designate the City, its officials, officers, members, employees, representatives, and agents as additional insureds, including for the completed operations exposure, and shall be primary and not contribute with any insurance or self-insurance maintained by the City. The foregoing limit may be obtained in a combination of Commercial General Liability and Umbrella Liability policies.

(ii) To the extent Developer has any employees, Worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure, and provide legal defense for the Developer against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Developer in the course of carrying out the work or services contemplated in this Agreement, and Employers Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury or disease. The workers' compensation policy shall be endorsed to waive the insurer's right of subrogation against the City, its officials, officers, members, employees, representatives, and agents.

(iii) To the extent Developer has any employees, business Automobile insurance in an amount not less than Three Million Dollars (\$3,000,000) per accident covering all owned, hired, and non-owned vehicles used in connection with the development of the Project. The foregoing limit may be obtained in a combination of Commercial General Liability and Umbrella Liability policies.

b. Commencing on the Effective Date and continuing until the City issues a Release of Construction Covenants for the Project, the Developer shall procure and maintain, at its sole cost and expense, in a form and content reasonably satisfactory to the City Manager, "All Risks" Builder's Risk (course of construction) insurance coverage on a replacement cost basis in an amount equal to the full cost of the hard construction costs of the Project. Such insurance shall contain no coinsurance provision, and cover, at a minimum: all work, materials, and equipment to be incorporated into the Project; the Project during construction; the completed Project until such time as the City issues a final certificate of occupancy for the Project, and storage, transportation, and equipment breakdown risks. Such insurance shall include coverage for flood, ordinance or law, temporary or offsite storage, debris removal, pollutant cleanup and removal, preservation of property, landscaping, shrubs and plants and full collapse during construction. Such insurance shall protect/insure the interests of Developer/owner and all of Developer's contractor(s), and subcontractors, as each of their interests may appear. If such insurance includes an exclusion for "design error," such exclusion shall only be for the object or portion which failed. The City shall be a loss payee under such policy or policies.

c. Developer shall cause any general contractor with whom it has contracted for the performance of work on the Site to secure, prior to commencing any activities hereunder and maintain insurance that satisfies all of the requirements of Section 7.1(a) and (e).

d. Commencing on the date City issues a Release of Construction Covenants, and continuing throughout the term of this Agreement, Developer shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City Manager, the following types of insurance:

(i) "All Risks" property insurance on a replacement cost basis in an amount equal to full replacement cost thereof, as the same may change from time to time. The above insurance policy or policies shall contain no coinsurance provision. City shall be a loss payee under such policy or policies.

(ii) Business interruption, rental value, and extra expense insurance to protect Developer and City covering loss of revenues and/or extra expense incurred by reason of the total or partial suspension or delay of, or interruption in, the operation of the Project caused by loss or damage to, or destruction of, any part of the insurable real property structures or equipment as a result of the perils insured against under the all risk physical damage insurance, covering a period of suspension, delay or interruption of at least twelve (12) months, in an amount not less than the amount required to cover such business interruption, rental value, and/or extra expense loss during such period.

(iii) Boiler and machinery insurance in the aggregate amount of the full replacement value of the equipment typically covered by such insurance.

e. The following additional requirements shall apply to all of the above policies of insurance:

(i) All of said policies of insurance except workers' compensation shall provide that said insurance may not be amended or cancelled without providing thirty (30) days' prior written notice (ten (10) days for nonpayment of premium) to the City. In the event any of said policies of insurance are cancelled, the Developer shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section to the City Manager. Not later than the Effective Date, the Developer shall provide the City Manager with Certificates of Insurance and required endorsements evidencing the above insurance coverages.

(ii) The policies of insurance required by this Agreement shall be satisfactory only if issued by companies with an A.M. Best rating not less than "A-", VII or otherwise approved by City.

(iii) Self-insurance retentions must be declared to and approved by the City Manager.

f. City shall have the right, upon sixty (60) days' notice to Developer, to increase the required amount of General Liability and Auto Liability coverage during the term of this City Regulatory Agreement; provided, however, that (i) any such increased limits shall be commercially reasonable for multifamily senior housing developments in Southern California that are similar in size and amenities to the Project, (ii) any such limits shall not render the operation of the Project pursuant to the requirements of this Agreement financially infeasible, as demonstrated by Developer, and (iii) such increases shall occur no more often than every five (5) years.

g. Developer agrees that the provisions of this Section shall not be construed as limiting in any way the City's right to indemnification or the extent to which the Developer may be held responsible for the payment of damages to any persons or property resulting from the Developer's activities or the activities of any person or persons for which the Developer is otherwise responsible.

7.2 Remedies for Defaults Regarding Insurance.

In addition to any other remedies the City may have, if Developer commits a default hereunder by failing to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, the City may at its sole option, and after delivery of written notice to Developer and expiration of a fifteen (15) day cure period, obtain such insurance and charge Developer for the amount of the premium for such insurance; provided, however, that if City Manager reasonably determines that the Developer, Site, and/or Project will be uninsured or under-insured in the absence of such insurance, then City need not provide for any cure period in its notice of default to Developer, but may instead obtain such insurance immediately upon its provision of such notice. Exercise of the remedy set forth herein, however, is an alternative to other remedies the City may have and is not the exclusive remedy for Developer's failure to maintain insurance or secure appropriate endorsements.

8.0 OBLIGATION TO REPAIR.

8.1 Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance. Subject to Section 8.3 below and the rights of any Senior Lender, if the Project shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty required to be insured against by Developer, Developer shall promptly proceed to obtain insurance proceeds and take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds and to the extent of such proceeds, to promptly and diligently commence the repair or replacement of the Project to substantially the same condition in which the Project is required to be maintained pursuant to this Agreement, and Developer shall complete the same as soon as possible thereafter so that the Project can continue to be operated and occupied as an affordable housing project in accordance with this Agreement. Subject to extensions of time for "Enforced Delay" events (as defined in Section 22 of this Agreement) occurring after the casualty event, in no event shall the repair, replacement, or restoration period exceed twenty-four (24) months from the date Developer obtains insurance proceeds, unless the City Manager approves a longer period of time which approval will not be unreasonably withheld. City shall cooperate with Developer, at no expense to City, in obtaining any governmental permits required for the repair, replacement, or restoration and, upon issuance of such permits City shall promptly release control of any insurance proceeds within City's control.

If Developer fails to obtain insurance as required by this Agreement (and City has not procured such insurance and charged Developer for the cost), Developer shall be obligated to reconstruct and repair any partial or total damage to the Project and improvements located on the site in accordance with this Section 8.1, if the fire or other casualty would have been covered by the insurance required to be obtained by Developer pursuant to this Agreement.

8.2 Continued Operations. During any period of repair, Developer shall continue, or cause the continuation of, the operation of the apartment complex and parking on the Site to the extent reasonably practicable from the standpoint of prudent business management.

8.3 Damage or Destruction Due to Cause Not Required to be Covered by Insurance. If the improvements comprising the Project are completely destroyed or substantially damaged by a casualty against which Developer is not required to (and has not) insured, then Subject to the rights of any Senior Lender, Developer shall not be required to repair, replace, or restore such improvements and may elect not to do so by providing City with written notice of election not to

repair, replace, or restore within one hundred twenty (120) days after such substantial damage or destruction. In such event, (i) Developer shall remove all debris from the Site and cause any liens on Developer's leasehold interest in the property, including that of Senior Lender, to be paid in full and/or removed from title on the Site, and (ii) upon removal of any such liens on Developer's leasehold interest in the Site, the Ground Lease and the City Agreements, including this Agreement shall automatically terminate and City shall cooperate to remove the Memorandum of Ground Lease and the City Agreements, including this Agreement, from title. As used in this Section 8.3, "substantial damage" shall mean damage or destruction which is thirty-five percent (35%) or more of the replacement cost of the improvements comprising the Project. In the event Developer does not timely elect not to repair, replace, or restore the improvements as set forth in the first sentence of this Section 8.3, Developer shall be conclusively deemed to have waived its right not to repair, replace, or restore the improvements and thereafter Developer shall promptly commence and complete the repair, replacement, or restoration of the damaged or destroyed improvements in accordance with Section 8.1 above and continue operation of the apartment complex and parking on the Site during the period of repair (if practicable) in accordance with Section 8.2 above.

9.0 LIMITATION ON TRANSFERS.

The qualifications and identity of the Developer are of particular concern to the City. It is because of these qualifications and identity that the City is entering into the AH/DDA and this Agreement with the Developer. Consequently, no person, whether a voluntary or involuntary successor of Developer, shall acquire any rights or powers under this Agreement nor shall the Developer assign all or any part of this Agreement or the Site without the prior written approval of the City. A voluntary or involuntary sale or transfer of any interest in the Developer or the Site during the term of this Agreement shall be deemed to constitute an assignment or transfer for the purposes of this Article 9, and the written approval of the City shall be required prior to effecting such an assignment or transfer. Any purported transfer, voluntarily or by operation of law, except with the prior written consent of the City, shall be null and void. During the term of this Agreement the Developer shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any rights or duties herein, nor make any total or partial sale, transfer, conveyance, or assignment of the whole or any part of the Site or any of the improvements thereon.

Notwithstanding any other provision of this Agreement to the contrary, City approval of an assignment of this Agreement or transfer of Developer's leasehold interest in the Site, or any interest therein, shall not be required in connection with:

- a. the conveyance or dedication of any portion of the Site to the City, or other appropriate governmental agency, including public utilities, where the granting of such conveyance or easement permits or facilitates the development of the Project on the Site or is otherwise required to provide public access to the City's property and for parking; or
- b. any assignment of the limited partner interests in Developer to an Affiliate of Developer or Jamboree;
- c. the transfer of the Project or Site to Jamboree, an entity controlled by Jamboree, a nonprofit corporation in which a majority of the board of directors are members of

the board of directors of Jamboree (any of the foregoing a “Jamboree Affiliate Entity”), or a partnership or limited liability company in which a Jamboree Affiliate Entity is a general partner or managing member;

d. any mortgage, deed of trust, or other form of conveyance required for any reasonable method of financing the development of the Project on the Site that is contemplated in the Project Budget attached to the AH/DDA or has otherwise been approved by the City Manager, including all direct and indirect costs related thereto, and any refinancing of any such mortgage, deed of trust, or other form of conveyance provided such refinancing does not result in a loan to value ratio in excess of 80% or a debt coverage ratio less than 1.15 to 1;

e. transfers of limited partnership interests resulting from the death or mental or physical incapacity of an individual;

f. transfers of limited partnership interests in trust for the benefit of a spouse, children, grandchildren, or other family member, or for charitable purposes;

g. the admissions of the Qualified Tax Credit Investor to Developer as a limited partner thereof;

h. the transfer by the Qualified Tax Credit Investor of its limited partnership interests to an entity that has the same general partner or managing member as the Qualified Tax Credit Investor or an Affiliate thereof.

Notwithstanding anything in this Article 9 to the contrary, any transfer or assignment by Developer or any successor in interest to Developer not requiring the approval by City shall be effective when made but shall not be deemed to relieve Developer or any successor party from the obligation to timely complete development of the Project unless and until the transferor and transferee execute and deliver to City an assignment and assumption agreement in a form and with content reasonably acceptable to City’s legal counsel. Any transfer or assignment by Developer or any successor in interest to Developer requiring the approval by City pursuant to this Article 9 shall not be effective and shall not be deemed to relieve Developer or any successor party from the obligation to timely complete development of the Project unless and until the transferor and transferee execute and deliver to the City an assignment and assumption agreement in a form and with content reasonably acceptable to City’s legal counsel.

This Article 9 shall not be applicable to the leasing of individual Units to Eligible Tenants in accordance with this Agreement, and no assignment and assumption agreement shall be required in connection therewith.

10.0 EVENTS OF DEFAULT BY DEVELOPER.

Subject to extensions of time pursuant to the terms of Section 22, the occurrence of one or more of any of the following events shall constitute an “**Event of Default**” by Developer hereunder if Developer shall have not cured, corrected, or remedied such failure within, unless a shorter or longer cure period is provided for specific defaults elsewhere in this Agreement, thirty (30) days following the service on Developer of a written notice from City specifying the failure complained of, or if it is not reasonably practicable to cure or remedy such failure within such thirty (30) day

period (which impracticality shall not apply to monetary defaults), within such longer period as shall be reasonable under the circumstances provided that Developer has commenced to cure within the same thirty (30) day period and has diligently prosecuted such cure to completion:

10.1 Developer abandons or surrenders the Site for more than thirty (30) days; or

10.2 Developer is in default of any of the covenants, terms or provisions of this Agreement; or

10.3 Developer voluntarily files or has involuntarily filed against it any petition under any bankruptcy or insolvency act or law and the same has not been dismissed within one hundred twenty (120) days thereafter; or

10.4 Developer is adjudicated a bankrupt; or

10.5 Developer makes a general assignment for the benefit of creditors in violation of the terms of this Agreement, the Ground Lease, or any of the City Agreements.

Notwithstanding anything herein to the contrary, whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer of the terms hereunder, the City shall at the same time deliver a copy of such notice or demand to the Qualified Tax Credit Investor. The Qualified Tax Credit Investor (insofar as the rights of the City are concerned) shall have the right, at its option, within thirty (30) days after the receipt of the notice (or such longer period of time as may be reasonably required provided the cure is commenced within such thirty (30) day period and thereafter diligently prosecuted to completion), to cure or remedy or commence to cure or remedy any such default. Such cure period shall run concurrently with the Developer's cure period described in this Article 10.0.

11.0 REMEDIES OF CITY.

In the event Developer defaults in the performance or observance of any covenant, agreement or obligation of Developer pursuant to this Agreement, and if such default remains uncured for a period of thirty (30) days after written notice thereof shall have been given by City (or such lesser period as may apply under Section 4.1), or, in the event said default cannot reasonably be cured within said time period, Developer has failed to commence to cure such default within the applicable time period and diligently prosecute said cure to completion, then City may declare an "Event of Default" to have occurred hereunder, and, at its option, may take one or more of the following steps:

11.1 With respect to (i) the physical condition of the Site, or (ii) Developer's Gross Mismanagement of the Project, enter the Site and correct or cause to be corrected said default and charge the costs thereof (including costs incurred by City in enforcing this provision) to the account of Developer, which charge shall be due and payable within thirty (30) days after presentation by City of a statement of all or part of said costs, and if such bill is not timely paid then pursue the remedies set forth in Section 4.2;

11.2 Correct or cause to be corrected said default and pay the costs thereof (including costs incurred by City in enforcing this provision) from the proceeds of any insurance;

11.3 Exercise its right to maintain any and all actions or proceedings at law or suits in equity to compel Developer to correct or cause to be corrected said default;

11.4 Terminate this Agreement by written notice to Developer and seek repayment of any remaining principal and accrued interest then owing on the City Note, or other loans or Notes secured by the City Trust Deed, subject to the nonrecourse provisions set forth therein;

Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by another party.

12.0 NONDISCRIMINATION.

Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person, or group of persons on 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, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, or any part thereof, nor shall Developer, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site, or any part thereof. The foregoing covenants shall run with the land.

Developer agrees for itself and any successor in interest that Developer shall refrain from restricting the rental, sale, or lease of any portion of the Site, or contracts relating to the Site, on the basis of race, color, creed, religion, sex, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(i) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of 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, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

(ii) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following

conditions: “That there shall be no discrimination against or segregation of any person or group of persons, on account of 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, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased. The foregoing covenants shall run with the land.”

(iii) In contracts: “There shall be no discrimination against or segregation of, any person or 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, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns, the City and any successor in interest to the Site, together with any property acquired by the Developer pursuant to this Agreement, or any part thereof. The covenants against discrimination shall remain in effect in perpetuity.

13.0 COVENANTS TO RUN WITH THE LAND.

Developer hereby subjects the Site to the covenants, reservations, and restrictions set forth in this Agreement. City and Developer hereby declare their express intent that all such covenants, reservations, and restrictions shall be deemed covenants running with the land, and shall pass to and be binding upon the Developer’s successors in interest to the Site; provided, however, that on the termination of this Agreement said covenants, reservations and restrictions shall automatically expire. All covenants established in this Agreement shall, without regard to technical classification or designation, be binding for the benefit of the City, and such covenants shall run in favor of the City for the entire term of this Agreement, without regard to whether the City is or remains an owner of any land or interest therein to which such covenants relate. Each and every contract, deed or other instrument hereafter executed covering or conveying the Site or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

City and Developer hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that Developer’s legal interest in the Site is rendered less valuable thereby. City and Developer further hereby declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and

increasing the enjoyment and use of the Project by Eligible Tenants, the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which the City was formed.

Developer, in exchange for the City entering into the City Agreements, and pursuant to the requirements of applicable laws governing the Project, including the Density Bonus Laws, hereby agrees to hold, sell, and convey Developer's interest in the Site subject to the terms of this Agreement. Developer also grants to the City the right and power to enforce the terms of this Agreement against the Developer and all persons having any right, title or interest in the Site or any part thereof, their heirs, successive owners and assigns.

The covenants set forth in this Agreement shall remain in effect until expiration of the Term or earlier termination pursuant to the following paragraph.

Notwithstanding anything to the contrary in this Agreement, this Agreement shall automatically terminate, and the Term shall automatically end, if before the end of the Term either of the following occurs, (i) that certain Ground Lease entered into between Developer and City on or about the same date hereof (the "**Ground Lease**"), a memorandum of which is being recorded substantially concurrently herewith in the Official Records of Orange County, expires, or (ii) City terminates the Ground Lease and a new ground lease is not entered into substantially concurrently with said termination. Notwithstanding such automatic termination of this Agreement in the foregoing circumstances, however, each of City and Developer agrees to execute and record a document formally terminating this Agreement if necessary to clear this Agreement from title.

14.0 INDEMNIFICATION.

Developer agrees for itself and its successors and assigns to indemnify, defend, and hold harmless the Released/Indemnified Parties, with defense counsel (i) selected by City, or (ii) at City's election, selected by Developer and reasonably acceptable to City, from and against any loss, liability, claim, or judgment relating in any manner to the Project excepting only any such loss, liability, claim, or judgment arising out of the intentional wrongdoing or gross active negligence of any of the Released/Indemnified Parties.

15.0 UTILITIES AND TAXES.

Developer shall remain fully obligated for the payment of (i) real and personal property taxes and assessments in connection with the Site (subject to any exemptions available to Developer in connection therewith), and (ii) all charges for all utilities serving the Site for which the tenants of the Units are not responsible.

16.0 ATTORNEYS' FEES.

In the event that a party to this Agreement brings an action against the other party hereto by reason of the breach of any condition, covenant, representation or warranty in this Agreement, or otherwise arising out of this Agreement, the prevailing party in such action shall be entitled to recover from the other party its reasonable attorney's fees and costs, including expert witness fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to

attorney's fees shall be entitled to all other reasonable costs for investigating such action, including the conducting of discovery.

17.0 AMENDMENTS.

The Developer and the City agree to mutually consider reasonable requests for amendments to this Agreement which may be made by either of the parties hereto, or lending institutions, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein. The City Manager shall have the authority to approve, on behalf of the City, amendments to this Agreement that would not substantially alter the basic business terms or substantially increase the risk or cost to the City. All other amendments shall require the action of the City Council. All amendments, including those authorized to be approved by the City Manager, shall be in writing and shall be signed by authorized representatives of City and Developer.

18.0 NOTICE.

Formal notices, demands, and communications between City and Developer shall be sufficiently given if (i) personally delivered, (ii) delivered by a reputable same-day or overnight courier services that provides a receipt showing date and time of delivery, or (iii) delivered by United States mail, registered or certified, postage prepaid, return receipt requested. Delivery shall be made to the following addresses:

If to City: City of Costa Mesa
77 Fair Drive
Cosa Mesa, California 92626
Attn: City Manager

With a copy to: Jones Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835
Attn: Kimberly Hall Barlow

If to Developer: Prior to completion of construction:

LP
c/o Jamboree Housing Corporation
17701 Cowan Ave., Suite 200
Irvine, CA 92614
Attn: Executive Vice President and Chief
Development Officer

Following completion of construction:

LP
c/o Jamboree Housing Corporation
17701 Cowan Ave., Suite 200
Irvine, CA 92614
Attn: Asset Manager

With a copy to: _____

and

Rutan & Tucker, LLP
18575 Jamboree Road, 9th Floor
Irvine, CA 92612
Attn: Patrick McCalla, Esq.

Notices that are personally delivered, delivered by messenger/courier shall be deemed effective upon receipt. Notices delivered by mail shall be deemed effective upon the earlier of actual receipt by the addressee thereof or the expiration of forty-eight (48) hours after depositing in the United States Postal System in the manner described in this Section. Such written notices, demands, and communications may be sent in the same manner to such other addresses as a party may from time to time designate by mail.

19.0 NONLIABILITY OF CITY OFFICIALS.

No officer, official, member, employee, agent, or representative of the City shall be personally liable to Developer, or any successor in interest to Developer, in the event of any default or breach by City or for any amount which may become due to Developer or successor or on any obligations under the terms of this Agreement or any of the City Agreements.

20.0 TRANSACTIONS WITH AFFILIATES.

Developer shall have the right to enter into contracts with subsidiaries, affiliates and other related entities for the purpose of providing cleaning, maintenance and repair services, insurance policies and other purposes related to the operation of the Site, provided that all such costs and charges are competitive with the costs, charges, rent and other sums which would be paid by or to, as the case may be, an unrelated third party. City acknowledges and agrees that Developer may act as its own general contractor or may engage a third party licensed contractor for the construction of any improvements on the Site and that will be entitled in so doing to earn a commercially reasonable fee.

21.0 SEVERABILITY/WAIVER/INTEGRATION/INTERPRETATION; ENTIRE AGREEMENT.

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

21.2 Waiver. All waivers of the provisions of this Agreement, unless specified otherwise herein, must be in writing and signed by the appropriate authorities of City or Developer, as applicable. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under

the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not invalidate this Agreement nor shall it be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

21.3 Integration. This Agreement contains the entire Agreement between the parties concerning the subject matter hereof and neither party relies on any warranty or representation not contained in this Agreement.

21.4 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

21.5 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.

22.0 ENFORCED DELAY; EXTENSIONS OF TIME.

Performance by a 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; supernatural causes; 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; or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. In the event of such a delay (herein “**Enforced Delay**”), the party delayed shall continue to exercise reasonable diligence to minimize the period of the delay. An extension of time for any such cause shall be limited to the period of the Enforced Delay, and shall commence to run from the time of the commencement of the cause, provided notice by the party claiming such extension is sent to the other party within thirty (30) days after the sending party has knowledge, or should have obtained knowledge, of the commencement of the cause. The following shall not be considered as events or causes beyond the control of Developer, and shall not entitle Developer to an extension of time to perform: (i) Developer’s failure to obtain financing for the Project (except as a result of an omission or breach by City), (ii) Developer’s failure to negotiate agreements with prospective tenants or users for the Project, or (iii) interest rates or economic or market conditions. Times of performance under this Agreement may also be extended by mutual written agreement by City and Developer. The City Manager shall also have the authority on behalf of City to administratively approve extensions of time not to exceed a cumulative total of one (1) year.

23.0 GOVERNING LAW.

This Agreement shall be governed by the internal laws of the State of California without regard to conflict of law principles.

24.0 NO MERGER.

The covenants, terms, and provisions of this Agreement shall not merge with any grant deed or other instrument pertaining to the conveyance of any interest in real property.

25.0 COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall constitute one original and all of which shall be one and the same instrument.

26.0 MORTGAGEE PROTECTION.

The default of any of the provisions of this Agreement shall not defeat or render invalid the lien of any duly recorded mortgage or deed of trust encumbering Developer's leasehold interest in the Site or any portion thereof. The City hereby agrees to cooperate, including by effecting suitable amendment to this Agreement, to add any provision which may reasonably be requested by any proposed mortgagee for the purpose of implementing the mortgagee protection provisions contained in this Agreement and allowing such mortgagee reasonable means to protect or preserve the lien and security interest of its mortgage as well as such other documents containing terms and provisions customarily required by mortgagees in connection with any such financing. Nothing herein contained shall require any mortgagee to cure any default of Developer hereunder prior to its acquisition of Developer's leasehold interest in the Site pursuant to a foreclosure of its mortgage, trustee sale thereunder or deed in lieu foreclosure thereof. Upon acquisition of Developer's leasehold interest in the Site, such mortgagee or the purchaser or grantee, as applicable shall only be liable and responsible for defaults first arising after the date of such acquisition.

27.0 LIMITED GRANT OF SUBORDINATION.

Provided that the affordability covenants and related preservation thereof in Articles 1, 2 (other than the obligations in Section 2.1 to construct the Project), 3 (other than Sections 3.13 and 3.14), 12 and 13 of this Agreement and the City Easement Agreement have priority over any deed of trust or other mortgage security instrument and shall remain binding and run with the Site for the "Term" of this Agreement in the event of foreclosure or deed in lieu of foreclosure or any other action taken pursuant to such deed of trust or other mortgage security instrument, City agrees to subordinate this Agreement to any deed of trust evidencing a loan which is used, in whole or in part, to refinance the Construction Loan, the Take-Out Loan or any subsequent loan used to refinance said refinancing loan (each a "**Refinancing Loan**") provided that the original principal amount of any such Refinancing Loan shall not be more than the greater of (a) the lesser of (i) eighty percent (80%) of the fair market value of the Project as determined by the lender of such Refinancing Loan; and (ii) the amount which results in a debt service coverage ratio for the Refinancing Loan that is equal to or greater than 1.15:1 as determined by the lender for such Refinancing Loan; and (b) the amount necessary to cause reconveyance of the loan being refinanced, including payment of (1) all costs [i.e., escrow, legal, title, etc.] of the refinance, (2) any deferred developer fee, (3) any completion operating deficit loans, (4) any proceeds that are required to be paid to another soft lender, provided the loan made by such soft lender is contemplated in the Project Budget, (3) amounts reserved for any repairs or capital improvements to the Project, (4) amounts required to be reserved by the refinancing lender and (5) amounts paid

to acquire or redeem the interest of Borrower's limited partner; and provided further that nothing herein shall be deemed to subordinate or affect the affordability covenants of the AH/DDA or the City Regulatory Agreement. Any deed of trust securing any Refinancing Loan shall hereinafter be referred to as the "**Refinancing Deed of Trust**". Subject to the conditions of any subordination set forth in this Section 27.0 and the AH/DDA, the City hereby agrees to subordinate this Agreement to any authorized Refinancing Deed of Trust, and understands that in reliance upon and in consideration of this subordination, specific loans and advances are being and will be made, and, in connection therewith, specific monetary and other obligations are being and will be entered into, which would not have been made or entered into but for reliance upon this Section. The City will, at any time upon sixty (60) days written request from Developer, execute a further specific subordination agreement reasonably required by the lender of the Refinancing Loan subordinating this Agreement to any Refinancing Deed of Trust, provided that any such subordination agreement complies with the requirements in this Section by maintaining the priority of the affordability covenants and their running with the Site for the Term of this Agreement, and any such subordination agreement is in a form approved by the City, in its reasonable discretion, that clearly provides the subordination does not include the affordability covenants and preservation thereof for the Term of this Agreement. Any such specific subordination agreement shall be deemed reasonable and to comply with the requirements of this Section if it is substantially similar to the form of subordination agreement executed by City in connection with the Construction Loan or the Take-Out Loan.

28.0 FINANCIAL OBLIGATIONS PERSONAL TO DEVELOPER.

Notwithstanding any provisions of this Agreement to the contrary, but subject to Section 4.2 hereof, (i) all obligations of the Developer under this Agreement for the payment of money, (ii) all claims for damages against the Developer occasioned by breach or alleged breach by the Developer of its obligations under this Agreement, and (iii) all of Developer's indemnification obligations hereunder, shall not be a lien on the Project and no person shall have the right to enforce such obligations or claims other than directly against the Developer as provided in this Agreement.

Provided a transfer complies with Article 9 of this Agreement and as long as the prior "Developer" under this Agreement has delivered to the City an assignment and assumption or other agreement giving notice to City of a subsequent owner that has legal and binding ownership of the Project, no subsequent owner of the Project shall be liable or obligated for the breach or default of any obligations of the Developer under this Agreement on the part of any prior Developer, including, but not limited to, any payment or indemnification obligation, as such obligations are personal to the person who was the Developer at the time the default or breach was alleged to have occurred and such person shall remain liable for any and all damages occasioned thereby even after such person ceases to be the Developer. Each Developer shall comply with and be fully liable for all obligations of a "Developer" hereunder during its period of ownership.

29.0 LIMITED RECOURSE OBLIGATIONS.

The obligations of Developer under this Agreement are a limited obligation of the Developer and no member, officer, partner or employee of Developer shall have any personal liability for the obligations of Developer contained in this Agreement; the City's sole recourse for a default under this Agreement shall be the Site and the Project.

[end - signature page follows]

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

“City”

CITY OF COSTA MESA,
a California municipal corporation

Dated: _____, 202_

By: _____
Lori Ann Farrell Harrison, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

JONES MAYER

Counsel to the City of Costa Mesa

“Developer”

California limited partnership, LP, a

By: _____ LLC, a
California limited liability company,
Managing General Partner

Dated: _____, 202_

By: Jamboree Housing Corporation, a
California nonprofit public benefit
corporation, Manager

By: _____
Name: _____
Title: _____

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 Orange)

On _____, before me, _____,
(insert name and title of the officer)

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.

Signature _____ (Seal)

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 Orange)

On _____, before me, _____,
(insert name and title of the officer)

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.

Signature _____ (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF SITE

[To be inserted]

EXHIBIT "B"

INCOME COMPUTATION AND CERTIFICATION FORM

[See following pages]

CITY OF COSTA MESA
77 Fair Drive, Costa Mesa, California 92626

INCOME COMPUTATION AND CERTIFICATION FORM
(Affordable Housing Eligibility for Renter Occupied Unit)

PART I. PROPERTY FINANCED WITH GOVERNMENT ASSISTANCE

Property Address: _____

PART II. TENANT HOUSEHOLD INFORMATION

		Date of Birth	Soc. Sec. #	Relationship

TOTAL NUMBER OF PERSONS IN HOUSEHOLD: _____ (Please list information on other household members below)

Mailing Address: _____ Telephone Numbers: Work () _____
 _____ Home () _____

PART III. GROSS HOUSEHOLD INCOME Complete the following, attach copies of required verification as specified below. Attach a note explaining any significant changes in household income between the previous year and the current year. INFORMATION IS REQUIRED FOR ALL MEMBERS OF THE HOUSEHOLD AGE 18 OR OLDER REGARDLESS OF WHETHER THEY CONTRIBUTE TO THE COSTS OF THE HOUSEHOLD. If you are not required to file a tax return, please indicate this in Part V by your signature.

INCOME SOURCES	ANN INCOME for owner	ANN INCOME others in hshld	VERIFICATIONS (needed for file)
A. Employment earnings			Last tax return & last 3 pay stubs, employer verification
B. Self-employment earnings			Last 2 tax returns & current financial stmt
C. Social Security (OASDI)			Annual award letter
D. Supplemental Security Income (SSI)			Annual award letter
E. Public assistance (AFDC, general assistance, unemployment, etc.)			Current benefit statement
F. Pension (s)			Annual award letter, yearend stmt, W-2
G. Interest income			Last 2 statements for all accounts
H. Investment income (stocks, bonds, real estate, etc.)			Last 2 statements for all accounts
I. Room rental			Rental agreement, copies of checks, etc.
J. Other income (list type/source)			
K. TOTAL INCOME (sum of A thru J)			/ 12 months = _____ mo. income

PART IV. PROPERTY STATUS

Will this property be your primary residence? _____

Will someone other than the individuals listed above be occupying this property? _____

If yes - Name of occupants: _____

Telephone Number: _____ Mailing Address: _____

My/our housing expenses are as follows:

- 1. Monthly tenant rent _____
- 2. Average monthly utilities _____

PART V. TENANT CERTIFICATION

I/We understand that after the initial eligibility determination, completion of monitoring forms is required on an annual basis. I/We certify that I/we have disclosed all information pertaining to my/our application and that the information presented in the foregoing Sections I through IV is true and accurate to the best of my (our) knowledge.

_____	_____
Tenant	Tenant
Date	Date

For more information regarding this application, please contact management staff at (760) _____.

FOR OFFICE USE ONLY

_____ Information verified
 _____ Income category
 _____ Maximum allowable annual income (_____ % of median)
 _____ Applicant's annual income _____ gross monthly _____ max housing costs

Comments: _____

_____	_____
Management Staff	Date

EXHIBIT “C”

INCOME RECERTIFICATION FORM

[See following document]

CITY OF COSTA MESA
77 Fair Drive, Costa Mesa, California 92626

INCOME RECERTIFICATION FORM
(Renter Occupied Unit)

PART I. GENERAL INFORMATION

1. Property Owner Name _____, L.P.
2. Renter Name _____
3. Property Address _____
Costa Mesa, CA 92626 (Please include P.O. Box No. if applicable)
4. Has there been a change in ownership of this property during the preceding 12 month period?
Yes () No ()

(If yes, please explain) _____

PART II. UNIT INFORMATION

5. Number of Bedrooms _____
6. Number of Occupants _____
Names: _____

PART III. AFFIDAVIT OF RENTER

I, _____, and I, _____, as renters of units assisted pursuant to the Affordable Housing Program of the City of Costa Mesa (the “**Program**”), do hereby represent and warrant that the following computation includes all income (I/we) **anticipate receiving for the 12-month period commencing on January 1, 20__** (including the renter(s) and all family members of the renters):

- (a) amount of wages, salaries, overtime pay, commissions, fees, tips and bonuses, and payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation and severance pay (before payroll deduction) _____
- (b) net income from business or profession or rental of property (without deduction for repayment of debts or expansion of business) _____
- (c) interest and dividends _____
- (d) periodic receipts such as social security, annuities, pensions, retirement funds, insurance policies, disability or death benefits, alimony, child support, regular contributions or gifts from persons not occupying unit _____
- (e) public assistance allowance or grant plus excess of maximum allowable for shelter or utilities over the actual allowance for such purposes _____
- (f) regular and special pay and allowances of a member of armed services (whether or not living in the dwelling) _____

who is head of the family or spouse _____
 Subtotal (a) through (f) _____
 LESS: Portion of above items which are income of a family member
 who is less than 18 years old or a full-time student (_____)
 TOTAL ELIGIBLE INCOME _____

NOTE: The following items are not considered income: casual or sporadic gifts; amounts specifically for or in reimbursement of medical expenses; lump sum payment such as inheritances, insurance payments, capital gains and settlement for personal or property losses; educational scholarships paid directly to the student or educational institution; government benefits to a veteran for education; special pay to a serviceman head of family away from home and under hostile fire; foster child care payments; value of coupon allotments for purpose of food under Food Stamp Act of 1964 which is in excess of amount actually charged the eligible household; relocation payments under Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; payments received pursuant to participation in the following programs: VISTA, Service Learning Programs, and Special Volunteer Programs, SCORE, ACE, Retired Senior Volunteer Program, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience.

2. This affidavit is made with the knowledge that it will be relied upon by the Landlord and the City to determine maximum income for eligibility and (I/we) warrant that all information set forth in this Part III is true, correct and complete and based upon information (I/we) deem reliable and that the estimate contained in paragraph 1 is reasonable and based upon such investigation as the undersigned deemed necessary.
3. (I/We) will assist the Landlord and the City in obtaining any information or documents required to verify the statements made in this Part III and have **attached hereto a copy of our federal income tax return for the last year (20__)**.
4. (I/We) acknowledge that (I/we) have been advised that the making of any misrepresentation or misstatement in this affidavit will constitute a material breach of (my/our) agreement with the Landlord to rent the unit and will additionally enable the City to initiate and pursue all applicable legal and equitable remedies with respect to the unit and to me/us.

B. (My/Our) monthly housing expenses are limited to the following:

1. Base rent _____
2. Average Monthly Utilities _____
3. Other (explain) _____

(I/We) understand that completion of monitoring forms is required on an annual basis and agree to notify the City of Costa Mesa in writing of any change in ownership or rental of the unit. (I/We) do hereby swear under penalty of perjury that the foregoing statements are true and correct.

Date _____

 Renter(s)

EXHIBIT “D”

LEASE RIDER

[See following page]

JHC _____ PROJECT

Lease Rider

RESIDENT: _____
(if there is more than one adult occupant, each person must sign the rider)

LEASE DATE: _____

UNIT NO.: _____

The undersigned tenant(s) hereby certify and agree as follows:

1. Income Certification. The attached income certification is true, correct and complete. I/we agree to provide a similar certification annually upon request during the term of my occupancy.
2. Employer Verification. The landlord or property manager has my permission to verify my/our income from any sources of income I/we receive.
3. False Statements. If the income certification and/or lease application submitted by me/us is false, or if I/we fail to provide annual certifications, the landlord or property manager will have the right to terminate my/our lease and recover possession of my/our unit. I/we understand that the landlord and property manager are relying on this income certification in accepting me/us as a tenant, and the landlord or property manager will be seriously harmed if my/our income does not qualify the unit for the affordable housing program.
4. This rider shall be considered as part of my/our lease.

Date: _____

Tenant

Tenant

Tenant

Tenant

EXHIBIT "E"

CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

[See following page]

CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

The undersigned, being duly authorized to execute this certificate on behalf of JHC _____, L.P., a California limited partnership (“**Developer**”), owner of the JHC- _____ Housing Project, hereby represents and warrants that:

1. He/she has read and is thoroughly familiar with the provisions of the Affordable Housing / Disposition and Development Agreement between the City of Costa Mesa and Developer, as assigned to said owner of the Project.

2. As of June 30, 20____, the following number of residential units in the _____ (“**Rental Apartment Complex**”) (i) are currently occupied by tenants qualifying as Eligible Tenants at Affordable Rents; or (ii) are currently vacant and being held available for occupancy by Eligible Tenants and have been so held continuously since the date Eligible Tenants vacated such unit, as indicated:

- i. Units occupied by Eligible Tenants
 - a. _____ units occupied by 30% Low Income Households
 - c. _____ units occupied by Low Income Households
- ii. _____ vacant units

3. The unit number, unit size, the tenant paid rental amount charged and collected, the number of occupants and the income of the occupants for each restricted unit in the Rental Apartment Complex is set forth on the attached list. All restricted units in the Rental Apartment Complex are rented at Affordable Rent.

OWNER NAME

LP, a
California limited partnership,

By: _____ LLC, a
California limited liability company,
Managing General Partner

By: Jamboree Housing Corporation, a
California nonprofit public benefit
corporation, Manager

Dated: _____

By: _____
Name: _____
Title: _____

EXHIBIT "F"

SOCIAL SERVICES

[See attached]

COSTA MESA SENIOR SOCIAL SERVICES PLAN

Target Population

The 70-unit project will consist of 69 one-bedroom units and 1 two-bedroom manager unit. Approximately, 49% of the project will target homeless seniors (34 units), while the remaining 51% will serve seniors through regular affordable housing (35 units). 34 units will be set aside for seniors experiencing homelessness with incomes at or below 30% Area Median Income (AMI). The remaining units will be targeted to seniors with incomes at or below 60% AMI, and one two-bedroom manager's unit. Out of the 34 permanent supportive housing units, 23 units will serve residents with Special Needs. These units will be for Orange County's MHSA population. Of the 23 MHSA units, 13 units will be restricted by the County of Orange, and 10 units will be restricted by the Orange County Housing Finance Trust. These programs target individuals who are diagnosed with Major Depression, Schizophrenia, Bi-Polar Disorder, Post -Traumatic Stress Disorder (PTSD) or other Serious and Persistent Mental Illness (SPMI) as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM 5.) The target population for this program consists of seniors who have a serious and persistent mental illness and who are homeless or at risk of homelessness.

Property management and services providers at the project share a commitment to the "Housing First" model of providing permanent supportive housing. Property management will process applicant referrals from coordinated entry systems as quickly as possible, "screening in" applicants regardless of poor credit history, eviction history, criminal justice involvement, use of alcohol or drugs, or completion or participation in services. With the singular goal of housing stability for its residents, property management and service providers will be aligned in its efforts to provide flexible, voluntary supportive services to assist residents maintain their housing. With the supportive services immediately available after move-in and the connections to the community-based support, residents will be engaged immediately with efforts to avoid a return to homelessness.

Overview

Jamboree has directly provided Resident Services at its properties since 1990 when it formed the 501(c)3, Housing With Heart (HWH). Housing With Heart operates under Jamboree's umbrella utilizing best practice, evidence-driven models to transform lives and strengthen communities.

At every Permanent Supportive Housing project, Housing With Heart is the Master Supportive Service Provider, and we both deliver high-quality supportive services necessary to help residents succeed in staying stably housed in our properties, as well as oversee the multiple agencies and partners who are also engaged with our residents. In this role, we are responsible for integrating the activity of property management, external service providers and a wide range of other resources including the partners who will be located on site to address the unique and individuals needs and goals of each person who comes to live at Airport Inn.

Our Approach

Effective engagement, our "whatever it takes" approach, relies upon the skills of the Housing With Heart (HWH) services team to develop the trust and agreement of each client to participate in the development of goals unique to their needs and interests.

The engagement and support of these clients will be accomplished through a skilled supportive services team led by HWH.

Each resident, regardless of their referral source or eligibility for particular resources, will have the same robust service plan and targeted outcomes based on best practices in the field. HWH will ensure that all residents have equal standing and resource availability regardless of their program eligibility. Ensuring that all

residents have equal access through appropriate assessment and service planning so that housing stability and success are achieved is the standard of care at the property for every resident.

Our Best Practice Standard

All programs are operated under the best practice Housing First model. Access to programs is not contingent on sobriety, minimum income requirements, lack of a criminal record, completion of treatment, participation in services, or other unnecessary conditions. Housing and service goals and plans are highly tenant-driven. Supportive services emphasize engagement and problem-solving over therapeutic goals. Participation in services or compliance with service plans are not conditions of tenancy, but are reviewed with tenants and regularly offered as a resource to tenants. Services are informed by a harm-reduction philosophy that recognizes that drug and alcohol use and addiction are a part of some tenants' lives. Tenants are engaged in non-judgmental communication regarding drug and alcohol use and are offered education regarding how to avoid risky behaviors and engage in safer practices.

Staffing

HWH will staff 1 FTE onsite Supportive Service Coordinator (SSC) to provide care coordination and direct service delivery and .5 FTE Supportive Services Case Manager who will also provide care coordination and case management support. The goals for the residents/participants are to successfully retain their housing while simultaneously making progress in their recovery and developing increasing independence.

Supportive Service Coordinator duties include:

1. Document resident participation in services and track progress of resident goals.
2. Hours will be flexible depending on the needs of residents. These needs will be continuously assessed to determine the optimal weekly schedule.
3. Complete monthly newsletters describing the available social and supportive services offered on-site and off-site, including a calendar reflecting the time and location of such services.
4. Maintain information regarding the off-site services and programs and provide referrals to such programs when appropriate.
5. Provide advocacy, onsite case management services and linkage to residents as needed.
6. Complete intake assessment and orientation with new residents.
7. Respond to crisis management situations with appropriate interventions.
8. Maintain effective relations and coordinate services between community supports, service providers and property management.
9. Provide a positive atmosphere for the residents and promote community engagement.
10. Provide daily Adult Education groups/workshops onsite to residents.
11. Coordinate Health and Wellness events and community building activities yearly.
12. Organize community-building and/or other enrichment activities for tenants (such as holiday events, tenant council, etc).
13. Provide onsite life skills training and reinforcement to residents.

Case Manager duties include:

1. Oversee services and coordination provided by SSCs.
2. Monthly All-Hands Meeting will be conducted onsite. Invitees will be: Property Management staff, County of Orange HCA representative, other relevant parties as the

- need warrants.
3. Provide clinical support, advocacy, crisis management and intervention when needed.
 4. Track/Measure program outcomes.
 5. Manage coordination of services between community supports, service providers and property management.
 6. Assist with intake and orientation of each new resident.
 7. Handle resident complaints and provide solution focused and problem-solving interventions.
 8. Complete Supportive Service Contract and ensure its proper maintenance.
 9. Model and teach a solid understanding of systemic and strength-based practice as evidenced by day-to-day interactions with residents, staff, and other professionals.
 10. Provides leadership to staff in providing excellent customer service, interventions, documentation skills and problem-solving ability.
 11. Engage in research regarding evidence-based clinical practices related to therapeutic interventions with the populations served and relay this knowledge to staff.
 12. Maintain effective relations with partners and help in the development and management of key strategic partnerships.
 13. Coordinate biweekly meetings with onsite staff, service providers, property management and other representatives to address resident issues and to promote communication among supportive staff.

Care Coordination & Communication

HWH will coordinate with local mental health service providers and link residents to needed services. This capacity will be included in this project program design to serve the needs of the participants, including those with severe and persistent mental illness as well as co-occurring substance use/abuse. As an additional support mechanism, HWH encourages and works closely with identified supports and family members of its program participants when appropriate to involve them in care and services.

Communication plans will be developed and administered for services agencies, including the service providers and property management team to ensure that care coordination between agencies, referrals, etc. are conducted to ensure the highest level of appropriate services.

The Supportive Services Case Manager will be responsible for coordinating communications between all parties who provide services on site including all currently identified agencies and property management. Weekly meetings with all hands (agencies) represented will be scheduled with minutes taken and distributed to all parties to ensure an effective tracking to ensure accountability and fulfillment of commitments as required.

HWH will be responsible for ensuring that frequent and appropriate care management plans are maintained and addressed with continuous communications between onsite staff and all service partners working with residents. HWH will focus on interventions and supports necessary to maintain housing stability as a priority outcome as well as established lines of authority and responsibility for working with onsite agencies and property management to address crisis interventions as necessary.

Residents will be monitored and engaged on a weekly basis to ensure that service delivery by all appropriate parties meets the desired requirements for engagement and outcomes. On-call staff and emergency protocols will be developed and managed.

Types of Services to be Provided

The Supportive Services team will provide households with information about available services and programs, help them access programs through referral, coordinate social and supportive services to be provided onsite and

leverage community resources for the site. Hours and services are flexible depending on the actual needs of the households.

To make sure resident needs are met, resident satisfaction surveys will be conducted annually to obtain feedback on services and programs. Surveys will be reviewed by HWH staff and service providers to assess if changes in services are needed. Additionally, monthly Community Meetings will be conducted to provide a forum for residents, HWH staff, and property management to share their concerns and feedback regarding onsite supportive services. Lastly, a resident committee may be created, where residents are voted or volunteer to hold monthly meetings focused on services and take an active role in voicing community concerns.

Housing With Heart will utilize its Aging Services Model onsite for all units, regardless of referral type. HWH model provides social programming with intentional elements that encourage engagement and address resident concerns, so there will be a decrease in social isolation and loneliness for seniors living at our properties, leading to better long-term physical and mental health outcomes for our residents. These positive health and wellness outcomes will ultimately allow residents to age in place longer.

Program Model Pillars

Encouraging residents to come to the community center to participate in programming will increase their physical health and overall emotional well-being. Programs should always boost camaraderie and volunteerism, as well as serve to address other presenting needs that occur within the communities. To this end, the following five program pillars are used to design and execute our aging services activities:

Social	Economic	Health	Education	Civic Engagement
<ul style="list-style-type: none"> • Provide social and/or community connections • Build community, engagement, fun 	<ul style="list-style-type: none"> • Provide access to basic needs (food, transportation, care) • Provide referrals/linkages to supportive services which increase independence 	<ul style="list-style-type: none"> • Stabilize or increase physical, mental, emotional health and wellness • Provide access to physical activity/exercise 	<ul style="list-style-type: none"> • Provide opportunities for learning/empowerment to improve own health • Advance economic outcomes through learning • Advance culture and diversity 	<ul style="list-style-type: none"> • Create social and civic engagement opportunities (volunteering, resident leadership)
<p>Activities can include: bingo, holiday events, movie nights</p>	<p>Activities can include: food distribution, enrollment into benefits</p>	<p>Activities can include: chair yoga, walking groups, nutritional cooking classes</p>	<p>Activities can include: educational workshops on disease management, identity theft prevention classes</p>	<p>Activities can include: Resident Leadership groups, volunteer opportunities</p>

Below are additional types of services that will be offered onsite.

Case Management

Residents will receive intensive case management, life skills training (such as cooking skills, healthy eating, and money management), substance abuse counseling and treatment, and connections to community resources including health care providers. All these services are aimed at recovery and wellness. Since the goal for onsite services is to assist in stabilizing the residents, the case management team will link residents to expanded community services and opportunity for engagement and re-integration including educational, and volunteer opportunities. Increasing income is a key factor in increasing stability. Case Managers will assist households with applying for eligible benefits such as SSI, general relief, and food programs. The underlying objective in addition to recovery and wellness is housing retention. If a resident has third party case management, (e.g. MHSA), HWH will ensure that residents are being cared for in a manner that results in effective outcomes.

Workshops

Residents will be provided with a variety of adult education services. HWH's Services team provides many of the adult education services, as well as partners with agencies in the local community to provide services. Workshops and events will be balanced and inclusive of the Aging Services Program Pillars: Social, Economic, Health, Education, and Civic Engagement.

Community Events

The HWH Services team will organize community building activities such as holiday events, cultural awareness activities, game nights, movie night, and community garden to build a community onsite. The Services team will coordinate activities, such as:

- Thanksgiving event
- Game Nights
- Summer BBQ
- Winter Holiday Party
- Movie Nights
- Bingo
- Community Garden

Behavioral Health Care

HWH uses a collaborative partnership to ensure appropriate levels of care in the delivery of supportive services for chronically homeless populations are provided. HWH utilizes an effective 24/7 service response system designed to minimize disruption to the stability of individuals experiencing mental health issues in this stable housing environment when relapse or decompensation occurs. Supportive services staff will coordinate with local mental health service providers and link residents to needed services as required. These service plans are an integral part of this project's program design to serve the needs of the participants, including those with posttraumatic stress disorder (PTSD), traumatic brain injury, anxiety disorder, and depression as well as co-occurring substance use/abuse. As an additional support mechanism, the services team will work closely with identified supports and family members of its program participants when appropriate to involve them in care and services.

The residents in the units funded by Orange County MHSA will be supported by Health Care Agency Adult and Older Adult Behavioral Health (HCA AOABH) providing comprehensive services that are coordinated, proactive, and effective in promoting wellness and recovery for homeless adults with mental illness living in Orange County. Every participant is assigned a dedicated Plan Coordinator (PC) or Personal Services Coordinator (PSC) who works closely with them to reach their goals. The PC or PSC functions as a case manager, providing primary oversight to participants on an individual basis and coordinating linkage to all services, both internal and external. The PC or PSC provides ongoing assessment and support to participants through regular visits at

whatever location is convenient for the participant. Though each client has a dedicated case manager, some programs (PACT, FSPs) follow a team approach to treatment, while others are more coordinated by the case manager in collaboration with the treating physician and Service Chief. The case manager works in coordination with the Clinical Team i.e. other PCs or PSCs, the psychiatrist and nurse, to ensure that the above listed needs of the participant are met. The PC or PSC is responsible for developing the master treatment plans annually for each participant on their caseload and to provide individualized goals with plans to help participants establish progressively higher levels of independence and recovery. The PCs and PSCs work collaboratively with the multi-disciplinary treatment team under the direction and guidance of the Service Chief, who is a licensed, master's level clinician.

Medical Care

Managing relationships with health care providers to support participants as needed are a critical part of every care plan. Often in need of medical care but unable to manage in a clinic environment, the coordination of the provision of medical services is often an important way to gain trust and build a relationship with members of the target population. All team members will have experience in the use of Motivational Interviewing and will receive ongoing in-service training in the use of this evidence-based practice.

Substance Abuse

Once housed, the SSC coordinates participants' engagement with substance abuse counseling and treatment providing choices to decrease substance usage and cease altogether. On-site groups will be offered for those residents wishing to participate in AA and/or NA.

Life Skills Training

Once the client has moved into the unit, supportive services continue to ensure the necessary supports are in place to preserve housing status, prevent relapses into homelessness, and continue advancements in well-being. To increase self-sufficiency, individualized life skills training may include: money management, shopping best practices, budgeting, support in finding constructive use of time, choices for decreasing substance usage, engaging in mental health and peer support services. Of notable importance are the practices of preventing conflict with neighbors and property management staff, and keeping an acceptable level of housekeeping. Services offered onsite will include groups and classes on healthy lifestyles. Home visits are conducted periodically so that staff can address issues such as uncleanliness. Residents will be connected to food pantries so they may obtain healthy food and staff will work to ensure all residents have access to regular meals.

Location of the services (on or off-site, and if off-site, where)

Case management and services that can be coordinated and directly delivered onsite in the community facilities at this property will be place-based at this location. These include: intensive case management; life skills enhancement workshops such as cooking skills, healthy eating, and money management; substance abuse counseling and treatment; and connections to community resources.

Instances involving physical and mental health checkups that necessitate off-site services will require that onsite case managers assist residents in accessing appropriately utilizing a range of strategies to ensure access. Service Coordinators will also link residents to expanded community services and opportunity for engagement and re-integration including educational and volunteer opportunities. Services that cannot be coordinated to occur on premises will require transportation assistance by the case management staff to ensure that residents can reach needed services regardless of limitations.

Service Provider Experience

Founded in 1990, Jamboree Housing Corporation was created to expand housing opportunities for low-income families and seniors in Irvine, California. We launched **Housing With Heart** in 2004, an innovative services initiative tailored to residents' needs. In 2010, HOMES, Inc. merged with Jamboree to create a true hybrid of

Permanent Supportive Housing (PSH) vitally important to [Orange County’s Ten-Year Plan to End Homelessness](#) – a bold undertaking to develop permanent housing options linked to a range of supportive services – and an initiative that our staff helped to develop. See Attachment A - Jamboree Supportive Services Experience and Capacity for an overview of Jamboree/HWH experiences with developing and managing Supportive Housing and Transition Housing and company organization chart.

Since then, Jamboree completed over 8,500 affordable housing units with Housing With Heart, as a contractual entity, overseeing resident services including providing comprehensive services for 800 plus veterans, 475 special needs tenants in 220 permanent supportive housing households across 11 communities from Sacramento to Southern California. Housing With Heart (HWH), as an affiliate of Jamboree Housing Corporation, is documented in Exhibit U17 – Certifications and Identify of Interest Disclosure. Jamboree currently employs 30 Resident Services Coordinators (RSCs) and 6 Managers and two Directors for our entire portfolio. The Jamboree/HWH Permanent Supportive team is comprised of 3 Case Managers, 3 Senior Case Managers and one Director with a clinical license to coordinate supportive services for the 11 PSH communities including 5 multifamily properties described below and 6 single family homes properties through the merger with HOMES.

This Jamboree/HWH staff team is responsible for direct services to formerly homeless and mental health clients as well as the coordination of interdisciplinary teams of care and service providers. These third-party agencies include behavioral health services staff, physical and mental health licensed practitioners, VA case managers and a wide range of other agency representatives. Care coordination is a core responsibility of the case management team as they are responsible, in many cases to be the lead service provider while in other cases they must manage cases where the lead role is legally held by others. Outcome and performance data measures the team’s adherence to evidence-based practices regarding Housing First and Permanent Supportive Housing as well as clinical standards and outcome-monitoring where appropriate.

As the developer and owner of the facilities in operation serving these populations Jamboree/HWH has implemented these case management systems and practices with our experience spanning more than a decade. While the documentation detailed below clearly demonstrates Jamboree/HWH meets the requirements that service contracts as evidence standard to demonstrate capacity to deliver case management services to these vulnerable populations, we feel that it does not fully reflect Jamboree/HWH full capacity or extensive expertise to deliver these services. Jamboree/HWH has adopted the standards of Housing First in Permanent Supportive Housing and believes our expertise is well-known by those who have worked with and partnered with us to serve these individuals. Below are a few representatives of highly respected homeless services providers who can attest to Housing With Heart/Jamboree’s supportive services experiences:

Dawn Price, Executive Director	Heather Stratman, Chief Administrative Officer
Friendship Shelter	Housing for Health
www.friendshipshelter.org	www.housingforhealthoc.org
dprice@friendshipshelter.org	hstratman@principlesa.org
April Ludwig, CEO	Larry Haynes, Executive Director
https://hopecoop.org	www.mercyhouse.net
TLCS, Inc. (dba Hope Cooperative)	Mercy House Living Centers
aludwig@hopecoop.org	larryh@mercyhouse.net

We are currently providing supportive services in Northern and Southern California and Jamboree staff currently serve as the Chair of the Continuum of Care in Orange County as well as members of the Coordinated Entry System Committee and are well-respected by a wide range of expert homeless service providers, shelter operators and we would be happy to demonstrate that if requested in person to the relevant individuals.

- Project Name:** Rockwood Apartments (Lincoln Avenue Apartments)
Address: 1270 East Lincoln Ave, Anaheim, California
Place-In-Service Date: 9/1/2016

Number of Units: 69 Family Units, 1 Manager's Unit

Population: 48 formerly homeless families with children, 15 housing units for Mental health Services Act (MHSA) clients living with mental illness, and 6 affordable units for low-income large families.

Supportive Services Description: Jamboree/HWH provides supportive services to individuals and households experiencing homelessness including case management based on each household's needs, clinical support, crisis management and intervention. The role of a Clinical Case Manager, a licensed Marriage Family Therapist (MFT) or Social Worker (SW), includes coordinating and facilitating with other collaborative partners (i.e. Resident Services Coordinator, OCAPICA, Western Youth Services) to deliver a comprehensive range of services from adult education services for vocational, self-development, health and wellness, recreational, housing stability, and support for mental health, conflict resolution, coping skills, and healthy relationships to focused workshops for budgeting, bullying, financial literacy, and goal setting. The Social and Services Implementation Agreement is entered with Anaheim Housing Authority, a public agency. This agreement demonstrated the existence of an existing "Base Supportive Services" for 70 units of permanent supportive housing on Page 1 Recital A with an enhanced social and supportive services and referenced the "Supportive Services Implementation Plan – Rockwood Apartments" on page 1 Recital C. The Enhanced Supportive Services is detailed on Page 2 Section 1.1. includes (a) Fund additional hours to the Clinical Services Manager (CSM) to focus on family assessments, case management and linkages to services; (b) Increased academic enrichment services for all ages in the project; (c) Economic Self-Reliance program. The RSC roles include coordination and implementation of the services identified in the original supportive services plan, work with CSM to continually assess residents needs to determine optimal weekly schedule for residents to engage services and programs.

2. **Project Name:** Studios at Hotel Berry

Address: 729 L St, Sacramento, California

Place-In-Service Date: 10/2/2012

Number of Units: 104 Studio Units, 1 Manager's Unit

Population: 10 housing units for Mental Health Services Act (MHSA) clients living with mental illness and 94 affordable apartments for low-income individuals. There are 25 VASH vouchers for veterans.

Supportive Services Description: Jamboree approach is effective engagement relying on HWH to develop the trust and agreement of each client through comprehensive assessment conducted upon move-in and a written treatment plan. Each treatment plan focuses on the participant's strengths and identified areas of need and is modified periodically as the needs and conditions of the person changes. The primary goal is to maintain their housing through the Housing First Model and successfully remaining in the community. Residents receive intensive case management, life skills training, substance abuse counseling and treatment, and connections to community resources including health care providers. Case manager assists households with applying for eligible benefits such as SSI, general relief, and food programs. Among other basic administrative duties, the Supportive Services Coordinator provides on-site life skills training, organizes community-building and enrichment activities, and responds to crisis management situations with appropriate interventions. The underlying objective, in addition to recovery and wellness, is housing retention.

3. **Project Name:** Diamond Aisle (Diamond Apartments Homes)

Address: 1310 W. Diamond St., Anaheim, California

Place-In-Service Date: 12/3/2008

Number of Units: 24 Special Needs Family Units, 1 Manager's Unit

Population: 24 housing units for Mental Health Services Act (MHSA) clients living with mental illness.

Supportive Services Description: Completed in 2008, Diamond Aisle is the very first housing development in the State of California to utilize MHSA funds. Jamboree delivers compassionate support to people experiencing homelessness, serious mental illness or other disabilities to help them recover, stabilize, and integrate into the community. For those transitioning from the streets or shelters into permanent housing, Jamboree's primary goal is to ensure that we remove any barriers to supportive services in order for residents to begin the path to recovery and retain their housing. Jamboree/HWH offers 20 hours of

supportive services per week by a Program Manager and Supportive Services coordinator. HWH supportive services include basic needs assessment, individual case management, individualized treatment plans, mental health care, life skills and job training programs, advocacy/education, and crisis intervention. Additionally, education on independent living skills.

4. **Project Name:** Doria Apartment Homes
Address: 1000 Crest Bird, Irvine, California
Place-In-Service Date: 8/29/2011
Number of Units: 133 Family Units, 1 Manager's Unit
Population: 20 housing units for Mental Health Services Act (MHSA) clients living with mental illness and 113 affordable units for low-income large families.
Supportive Services Description: Jamboree/HWH utilizes a variety of strategies to ensure quality standards are met. Quality of life indicators include medical management, group dynamics, household maintenance, and participation in outside community activities. One HWH staff takes an active role in bringing all service providers and property management together to review the needs of the supportive housing residents. HWH provides non-clinical social activities and skill building activities by one part-time resident services coordinator.

5. **Project Name:** Jackson Aisle
Address: 15432 Jackson Street, Midway, California
Place-In-Service Date: 2004
Number of Units: 29 Studio Units, 1 Manager's Unit
Population: 20 housing units for Mental Health Services Act (MHSA) clients living with mental illness and 113 affordable units for low-income large families.
Supportive Services Description: Co-developed by then HOMES, Inc. (now part of Jamboree) and [A Community of Friends](#), along with both OC's Housing Authority and Healthcare Agencies, Jackson Aisle was the County of Orange's first permanent supportive housing development dedicated 100% to those formerly homeless living with chronic mental illness. A Community of Friends exited the partnership in 2018, leaving Jamboree as the sole General Partner. For more than 15 years, regular gatherings between the residents, Jamboree, A Community of Friends and a network of seven agencies that provide onsite supportive services continue to be the backbone of success to Jackson Aisle residents thriving despite a mental health diagnosis. Resident services include basic needs assessment, mental health care, life skills and job training programs, advocacy/education, and crisis intervention. Additionally, education on independent living skills in the areas of cooking, cleaning, budgeting and accessing public transportation are regularly offered. Opened in 2004, the residents are like extended family to each other with long-term tenancy the norm. HWH provides non-clinical social activities and skill building activities. In addition to these resident services, HWH utilizes a variety of strategies to ensure quality standards are met. Quality of life indicators include medical management, group dynamics, household maintenance, and participation in outside community activities. One HWH staff takes an active role in bringing all service providers and property management together to review the needs of the supportive housing residents.

6. **HOMES, Inc:** Jamboree acquired HOMES, Inc., a non-profit, in 2010 to expand its in-house services group, Housing With Heart. HOMES (Helping Our Mentally Ill Experience Success) provides housing and support for individuals with psychiatric disabilities. This housing program encourages independence and self-reliance by helping individuals succeed in their own local communities and beyond. Of the 6 single family homes acquired from the merger, HWH offers light case management services to 16 residents living at 3 different single-family homes (Fullerton House, El Modena House, and Orange House) throughout Orange County.

For Anaheim House, Jamboree provides short term supportive housing for up to 6 homeless persons at a time who are frequent emergency room patients with a goal of transitioning these persons into permanent supportive housing together with Saint Joseph Hospital (SJH). Case management and transitions to permanent supportive housing is provided by Jamboree/HWH. Jamboree has one 1.5 FTE staff to deliver services at the house who is supervised by a licensed manager. SJH clinical team and Jamboree staff are work together on the determination of eligibility for the housing, commitment of services to be provided to

the residents, and strategies for advancing the residents into permanent housing. Once housed Jamboree staff follow the resident and offer sustainability services for at least one year.

Project Name:	Anaheim House	Fullerton House	Cypress House	El Modena House	Orange House	Lakeview House
Address:	829 S Clementine St, Anaheim, CA	449 W. Knepp St, Fullerton, CA	555 N. Cypress St, Orange, CA	11742 S Esplanade St, Orange, CA	466 N Swidler St, Orange, CA	8 Lakeview, Irvine, CA
# of Rooms:	6	6	6	4	6	4
Population:	Transitional	Homeless	Vacant	Homeless	Homeless	TAY/Fam.

7. Aging Services: Jamboree has been providing direct services to residents in our senior communities for xx years. We aim to help seniors age in place with a high quality of life through increasing their social and emotional connections with friends and neighbors. Our best practice approach relies on research that tells us that by providing social programming with intentional elements that encourage engagement and address resident concerns, there will be a decrease in social isolation and loneliness for seniors living at our properties, leading to better long-term physical and mental health outcomes for our residents. These positive health and wellness outcomes will ultimately allow residents to age in place longer.

By encouraging residents to come to the community center to participate in programming, it will increase their physical health and overall emotional well-being. Programs boost camaraderie and volunteerism, as well as serve to address other presenting needs that occur within the communities. To this end, the following five program pillars are used to design and execute our aging services activities:

Social	Economic	Health	Education	Civic Engagement
<ul style="list-style-type: none"> • Provide social and/or community connections • Build community, engagement, fun 	<ul style="list-style-type: none"> • Provide access to basic needs (food, transportation, care) • Provide referrals/linkages to supportive services which increase independence 	<ul style="list-style-type: none"> • Stabilize or increase physical, mental, emotional health and wellness • Provide access to physical activity/exercise 	<ul style="list-style-type: none"> • Provide opportunities for learning/empowerment to improve own health • Advance economic outcomes through learning • Advance culture and diversity 	<ul style="list-style-type: none"> • Create social and civic engagement opportunities (volunteering, resident leadership)
Activities can include: bingo, holiday events, movie nights	Activities can include: food distribution, enrollment into benefits	Activities can include: chair yoga, walking groups, nutritional cooking classes	Activities can include: educational workshops on disease management, identity theft prevention classes	Activities can include: Resident Leadership groups, volunteer opportunities

Currently, we provide services at the following Jamboree properties:

Project Name:	The Meadows	Emerald Cove	Courier Place	Heritage Villas	Miracle Terrace
Address:	14851 Jeffrey Rd Irvine, CA 92618	18191 Parktree Circle Huntington Beach, CA 92647	111 S. College Ave Claremont, CA 91711	26836 Oso Pkwy Mission Viejo, CA 92691	225 Southwestern Ave Anaheim, CA 92804
# of Units	360	164	76	143	178

Source of Funding and Status

Services will be funded through the onsite operations budget.

Cost of Services

All services are free of charge to the residents and voluntary.

ATTACHMENT NO. 86
RELEASE OF CONSTRUCTION COVENANTS
[SEE FOLLOWING DOCUMENT]

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Costa Mesa
77 Fair Drive
Cosa Mesa, California 92626
Attn: City Manager

(Space Above Line for Recorder's Use Only)
(Exempt from Recording Fee per Gov. Code 27383)

[NOTE: RECORD
AS PARTIAL RELEASE
OF AGREEMENT]

RELEASE OF CONSTRUCTION COVENANTS

WHEREAS, JHC _____, L.P., a California limited partnership, (“**Developer**”), is the owner of a leasehold interest in that certain real property located at 695 W. 19th Street, in the City of Costa Mesa, County of Orange, State of California, as more particularly described in the legal description in Exhibit A attached hereto and incorporated herein by this reference (collectively, the “**Site**”).

WHEREAS, by an Affordable Housing / Disposition and Development Agreement (hereinafter referred to as the “**AH/DDA**”) dated _____, 2025, by and between Developer and the City of Costa Mesa, a California municipal corporation (“**City**”), has redeveloped the Site in accordance with the AH/DDA; and

WHEREAS, pursuant to Section 3.13 of the AH/DDA, promptly after Developer’s completion of the “Project” (as that term is defined in the AH/DDA) upon the Site, and upon request by Developer, City shall furnish Developer with a Release of Construction Covenants in such form as to permit it to be recorded in the Official Records of the County of Orange; and

WHEREAS, the issuance by City of the Release of Construction Covenants shall be conclusive evidence that Developer has complied with the terms of the AH/DDA pertaining to the development of the Site; and

WHEREAS, Developer has requested that City furnish Developer with the Release of Construction Covenants; and

WHEREAS, City has conclusively determined that the development of the Site has been satisfactorily completed as required by the AH/DDA;

NOW, THEREFORE:

1. As provided in the AH/DDA, City does hereby certify that development of the Site has been fully and satisfactorily performed and completed, and that such development is in full compliance with said AH/DDA.

2. This Release of Construction Covenants shall not constitute evidence of Developer's compliance with the following agreements, the provisions of which shall continue to run with the land until termination thereof in accordance with the terms thereof:

(i) Deed of Trust with Assignment of Rents, by and between Developer as borrower and City as beneficiary, dated _____, and recorded on _____, as Instrument No. _____, in the Office of the Orange County Recorder; and

(ii) Regulatory Agreement and Declaration of Covenants and Restrictions by and between Developer and City, and recorded on _____, as Instrument No. _____ in the Office of the Orange County Recorder.

3. This Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance construction work on the Site, or any part thereof.

4. This Release of Construction Covenants is not a Notice of Completion as referred to in California Civil Code section 3093.

5. Except as stated herein, nothing contained in this instrument shall modify in any way any other provisions of the AH/DDA or any other provisions of any agreements or documents referenced therein.

IN WITNESS WHEREOF, City has executed this Release of Construction Covenants as of this ____ day of _____, ____.

CITY OF COSTA MESA,
a California municipal corporation

By: _____
Lori Ann Farrell Harrison, City Manager

CONSENT TO RECORDATION

JHC-_____, L.P., a California limited partnership (“**Owner**”), owner of the fee interest in the real property legally described in Attachment No. 1 hereto, hereby consents to the recordation of the foregoing Release of Construction Covenants against said real property.

LP, a
California limited partnership,

By: _____ LLC, a
California limited liability company,
Managing General Partner

Dated: _____

By: Jamboree Housing Corporation, a
California nonprofit public benefit
corporation, Manager

By: _____
Name: _____
Title: _____

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 Orange)

On _____, before me, _____,
(insert name and title of the officer)

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.

Signature _____ (Seal)

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 Orange)

On _____, before me, _____,
(insert name and title of the officer)

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.

Signature _____ (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF SITE

[To be inserted]

ATTACHMENT NO. 9
PROJECT BUDGET
[SEE FOLLOWING PAGE]

ATTACHMENT NO. 10

**NOTICE OF AFFORDABILITY RESTRICTIONS
ON TRANSFER OF PROPERTY**

[SEE FOLLOWING DOCUMENT]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Costa Mesa
77 Fair Drive
Cosa Mesa, California 92626
Attn: City Manager

Exempt From Recording Fee Pursuant to Government Code § 27383

NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY

Important notice to owners, purchasers, tenants, lenders, brokers, escrow and title companies, and other persons, regarding affordable housing restrictions on the real property described in this Notice:

Affordable housing restrictions have been recorded with respect to the property described below (referred to in this Notice as the “**Site**”) which require that the Site be developed as an affordable rental development and that all of the units except one manager’s unit be rented to and occupied by persons and households of limited income at affordable rents.

Title of Document Containing Affordable Housing Restrictions: Regulatory Agreement and Declaration of Covenants and Restrictions (“**Regulatory Agreement**”).

Parties to Regulatory Agreement: City of Costa Mesa, a California municipal corporation (“**City**”), and _____ LP, a California limited partnership (“**Owner**”).

The Regulatory Agreement is recorded concurrently with this Notice, in the official records of Orange County.

Legal Description of Site: See Exhibit “A” attached hereto and incorporated herein by this reference.

Location of Site: [TBD] W. 19th Street, in the City of Costa Mesa, County of Orange, State of California.

Assessor's Parcel Number of Site: See Exhibit "A" attached hereto and incorporated herein by this reference.

Summary of Regulatory Agreement:

- The Regulatory Agreement requires the Owner to develop a rental housing development on the Site containing [TBD] units.
- The Regulatory Agreement restricts the rental of (i) [TBD] units to households whose annual income does not exceed thirty percent (30%) of the Orange County Median Income, as determined in accordance with Section 42(g) of the United States Internal Revenue Code of 1986, as amended, as published from time to time by the California Tax Credit Allocation Committee; and (ii) [TBD] units to households whose annual income does not exceed sixty percent (60%) of the Orange County Median Income, as determined in accordance with Section 42(g) of the United States Internal Revenue Code of 1986, as amended, as published from time to time by the California Tax Credit Allocation Committee.
- The Regulatory Agreement restricts the rents that may be charged to such households to the maximum amount of rent, including a reasonable utility allowance, that does not exceed the rent permitted to be charged to the applicable household, as the case may be, determined in accordance with Section 42(g)(2) of the IRC, and as published from time to time by TCAC.
- The term of the Regulatory Agreement is 99 years.

This Notice does not contain a full description of the details of all of the terms and conditions of the Regulatory Agreement. You will need to obtain and read the Regulatory Agreement to fully understand the restrictions and requirements which apply to the Site.

This Notice is being recorded and filed in compliance with Health and Safety Code Section 33334.3(f)(3) and (4), and shall be indexed against the City and the Owner of the Site.

[signature on next page]

“City”

CITY OF COSTA MESA, a California
municipal corporation

Date: _____, _____

By: _____

Lori Ann Farrell Harrison City
Manager

ATTEST:

_____ City Clerk

APPROVED AS TO FORM:
JONES MAYER

_____ Counsel to the City

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 Orange)

On _____, before me, _____,
(insert name and title of the officer)

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.

Signature _____

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF SITE

[To be inserted]

CONSENT TO RECORDATION

_____ L.P., a California limited partnership ("**Owner**"), owner of a leasehold interest in the real property legally described in Exhibit "A" hereto, hereby consents to the recordation of the foregoing Notice of Affordability Restrictions on Transfer of Property against said real property.

Dated: _____

By: _____

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 Orange)

On _____, before me, _____,
(insert name and title of the officer)

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.

Signature _____

(Seal)

ATTACHMENT NO. 11
FORM OF GROUND LEASE
[SEE FOLLOWING DOCUMENT]

GROUND LEASE

BETWEEN

**CITY OF COSTA MESA
AS "LANDLORD"**

AND

AS "TENANT" **LP**

CONCERNING CERTAIN REAL PROPERTY LOCATED

IN THE

CITY OF COSTA MESA, CA

GROUND LEASE

THIS GROUND LEASE (the “Lease” or “Ground Lease”) dated, for reference purposes only, as of _____, is entered into by and between the City of Costa Mesa, a California municipal corporation (“City” or “Landlord”) and _____ LP, a California limited partnership (“Tenant”).

RECITALS

A. City owns in fee that certain real property located at 695 W. 19th Street in the City of Costa Mesa, County of Orange, State of California, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “Premises”).

B. The Premises is improved with a portion of an existing parking lot that serves the adjacent Costa Mesa Senior Center.

C. On or about _____, 2025, City and JHC-Acquisitions LLC, a California limited liability company (“JHC-Acquisitions”), entered into that certain Affordable Housing / Disposition and Development Agreement (the “AH/DDA”), pursuant to which, among other things, City agreed to ground lease the Premises to JHC-Acquisitions or a permitted assignee thereof and to provide certain financial assistance to JHC-Acquisitions or a permitted assignee thereof, for the development and operation on the Premises of a senior affordable rental housing project.

D. On or about the same date hereof, JHC-Acquisitions assigned all of its rights and obligations under the AH/DDA to Tenant.

E. City now desires to lease the Premises to Tenant for a period of ninety-nine (99) years following the Commencement Date pursuant to the terms of this Ground Lease.

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which are incorporated herein by this reference, the covenants, representations, warranties and agreements set forth herein, and other good and valuable consideration, the sufficiency of which are hereby acknowledged, City and Tenant hereby agree to the following:

ARTICLE 1 PREMISES

1.1 **Lease of Premises**. For and in consideration of the covenants, conditions and restrictions set forth herein, City hereby leases to Tenant and Tenant hereby leases from City the Premises on the terms and conditions set forth herein. Concurrent with the execution of this Lease, Tenant and City will execute and record against Tenant’s leasehold interest in the Premises an easement agreement (the “City Easement Agreement”) in favor of City and for the benefit of City and City’s guests, invitees, vendors, employees and service personnel of the Costa Mesa Senior Center, which will provide (i) non-exclusive access rights over the driveway and drive aisles to be constructed as part of the “Project Improvements” (as defined in Section 1.2 below) that will provide ingress and egress to and from the public right-of-way to the Costa Mesa Senior Center, and (ii) non-exclusive rights to park in the uncovered surface parking spaces to be

constructed as part of the Project Improvements and on the ground floor of the affordable housing development to be constructed as part of the Project Improvements, all pursuant to the terms and conditions set forth in the Easement Agreement. This Lease is effective and binds the parties as of the last date this Lease is signed by authorized representatives of all parties below (“**Effective Date**”), notwithstanding that the Term Commencement Date will occur on the date described in Section 2.1.

1.2 **Premises Definitions.**

1.2.1 **Premises.** “**Premises**” means that certain real property located at 695 W. 19th Street in the City of Costa Mesa, County of Orange, State of California, more particularly described in Exhibit A attached hereto and incorporated herein by this reference, together with and subject to all singular rights, easements, licenses, privileges and appurtenances thereunto attaching or in any way belonging thereto, including, without limitation, the City Easement Agreement. The City Easement Agreement and the rights thereunder shall not be subordinated to any other obligation, encumbrance or lien on the Premises.

1.2.2 **Project Improvements.** “**Project Improvements**” means the senior affordable rental housing community to be developed on the Premises, including, without limitation, the following: all buildings, structures, parking areas, on site utility installations, landscaping, amenities, fences and other related ancillary facilities, together with any and all replacements or substitutions therefor or modifications thereto.

1.3 **Further Encumbrances.** City shall not encumber City’s fee estate in the real property comprising the Premises without the prior written consent of each “Leasehold Lender” (as defined in Section 16.1), which consent shall be granted or withheld in such Leasehold Lender’s sole and absolute discretion. City further irrevocably and unconditionally agrees that any mortgage, deed of trust or other security instrument now or hereafter encumbering all or any part of City’s fee estate in the real property comprising the Premises shall automatically be subject and subordinate in all respects to the lien of this Lease (and all amendments, modifications, extensions and renewals hereof) and all existing and future “Leasehold Mortgages” (as defined in Section 16.1) (and all amendments, modifications, extensions and renewals thereof). City shall, at the request of any Leasehold Lender, cause the holder of each such mortgage, deed of trust and other security instrument to execute and deliver to the requesting Leasehold Lender a written and recordable subordination agreement in form and substance as required by such Leasehold Lender in its reasonable discretion.

1.4 **CTCAC Lease Rider.** At such time as the Project is “placed in service” (as defined in Section 42 of the Internal Revenue Code), City and Tenant shall execute and acknowledge a California Tax Credit Allocation Committee (“CTCAC”) Lease Rider in the form then required by CTCAC, which Tenant shall cause to be recorded in the Official Records of Orange County, at Tenant’s expense.

ARTICLE 2
TERM OF LEASE

2.1 **Term.** The term of this Lease (the “**Term**”) commences on the date on which a Memorandum of Ground Lease is recorded in accordance with Section 17.6 below (the “**Term Commencement Date**”) and expires on the last day of the month in which the ninety-ninth (99th) anniversary of the Term Commencement Date occurs, and is subject to earlier termination as provided elsewhere in this Lease. The expiration or sooner termination of the Term shall be referred to as “**Lease Termination.**”

2.2 **Limited Right to Reopen at 55 Year Mark.** This Lease may be reopened for negotiations up to six months prior to the fifty-fifth (55th) anniversary of the Effective Date through the three hundred sixty-fifth (365th) day after the fifty-fifth (55th) anniversary of the Effective Date for changes, deletions, or amendments for the purposes of negotiating (i) “Additional Rent” (as defined below) payable by Tenant (provided that any such Additional Rent, if mutually agreed to between the parties, would be payable solely from Net Operating Income), (ii) social services to be provided to residents, and (iii) the required parking access and management plan. Either party may request reopening for negotiations in writing, which request shall include a summary of the proposed changes. Any such mutually acceptable changes, deletions, or amendments shall not be effective unless they are set forth in a written amendment executed by both parties.

2.3 **Lease Termination.** At Lease Termination, Tenant shall execute, acknowledge and deliver to City within thirty (30) days, a valid and recordable quitclaim deed covering all of the Premises, including the Project Improvements, free and clear of all liens, encumbrances, and deeds of trust, except those existing and created pursuant to the terms of this Lease or those remaining on title with the consent or at the request of the City (the “**Quitclaim Deed**”). Any and all encumbrances on the Premises or the Project Improvements at the time of Lease Termination which are the result or consequence of Tenant entering into this Lease, constructing the Project Improvements, operating the senior affordable rental community on the Premises, or any other actions or inactions of Tenant shall be cleared from title at Tenant’s sole cost, liability and expense. If Tenant fails to clear such encumbrances at Lease Termination, Tenant shall continue to be liable and responsible for all such costs, liabilities and expenses associated with, related to or caused by such encumbrances that were not removed by Tenant, and City may take any and all action to enforce its rights under this Lease and to have such encumbrances removed, and all costs and expenses associated with such actions shall be paid solely by Tenant upon City demand for such payment.

ARTICLE 3 RENT

3.1 **Rent Definitions.**

3.1.1 **Annual Base Rent.** “**Annual Base Rent**” for any Lease Year (as defined in Section 3.1.4 hereof) means the amounts set out below:

<u>Lease Years</u>	<u>Annual Base Rent</u>
Term Commencement	\$1.00
Date through the end of the Term	

3.1.2 Additional Rent. “**Additional Rent**” means all sums, Impositions (as defined in Section 4.1 hereof), costs, expenses, and other payments for which Tenant is responsible pursuant to this Lease, as it may be amended from time to time.

3.1.2.1 Definitions. For purposes of this section, the terms “**Applicable Percentage**,” “**Assignment**,” “**Net Operating Income**,” “**Refinancing**,” “**Senior Loans**,” “**Net Refinancing Proceeds**,” and “**Net Proceeds**,” shall have the meanings ascribed in the Promissory Note of even date between Tenant as “**Borrower**” and “**City**” as Lender/Beneficiary (the “**City Note**”).

3.1.2.2 Additional Receipts Rental Payments. Commencing in the year (the “**NOI Rent Commencement Year**”) after the year in which all payments on all loans to the Tenant from the City that are payable from Net Operating Income have been fully paid by Tenant, Tenant shall be pay, as Additional Rent hereunder to City, annually, on each December 1 during the Term following the NOI Rent Commencement Year, an amount equal to the Applicable Percentage multiplied by the Net Operating Income for the calendar year immediately preceding such annual payment date. On or before each said December 1, regardless as to whether any payment is remitted as Additional Rent under this subsection, Tenant shall provide City with an accounting documenting the calculation of Net Operating Income for the previous calendar year.

3.1.2.3 Additional Rent Due in the Event of Refinancing of Senior Loans or Transfer of Project Improvements. If following the NOI Rent Commencement Year, Tenant undertakes a Refinancing as permitted by the AH/DDA, the Applicable Percentage of any Net Refinancing Proceeds of that Refinancing shall be payable to City no later than the recording of the Refinancing, as Additional Rent. If Borrower causes an Assignment, or otherwise transfers all or part of the Project Improvements as provided in Section 1.5 of the AH/DDA, the Applicable Percentage of any Net Proceeds of that transfer shall be payable to City no later than the date of close of escrow or other consummation of the transfer.

3.1.3 Rent. The Annual Base Rent and the Additional Rent are collectively referred to as “**Rent**.”

3.1.4 Lease Year. “**Lease Year**” means twelve (12) month periods, with the first Lease Year commencing on the Term Commencement Date, provided if the Term Commencement Date is other than the first day of a month, the first Lease Year shall also include the partial month during which the Term Commencement Date falls, and each subsequent Lease Year shall begin on the first day of the same month that is the first full month of the first Lease Year.

3.2 Rent. Tenant’s obligation to pay Rent under this Lease shall consist of the obligation to pay (i) Annual Base Rent and (ii) Additional Rent.

3.2.1 Accrual of Annual Base Rent. Tenant’s obligation to pay Annual Base Rent shall begin to accrue on the Term Commencement Date and shall continue to accrue throughout the Term. The parties agree and acknowledge that the cumulative Annual Base Rent for the Term of Ninety-Nine Dollars (\$99) shall be paid to City no later than the Term Commencement Date.

3.2.2 Additional Rent. Tenant's obligation to pay Additional Rent shall begin to accrue on the Term Commencement Date and shall continue to accrue throughout the Term. Additional Rent shall be payable by Tenant to the appropriate party on or before the date required by this Lease.

3.2.3 Additional Consideration. In addition to the Rent and Additional Rent provided for herein, consideration for this Lease shall also be and is Tenant's full and complete compliance with all terms, conditions, warranties and covenants contained in this Lease relating to the construction, operation and management of the Project Improvements.

3.2.4 Use of Residential Units. If at any time any residential unit in the Premises is used for any purpose other than as an affordable housing unit or a manager's unit as required under this Lease, notwithstanding Section 16.2.1, but at all times subject to the notice and cure period set forth in Section 15.1.12 and subject further to the rights of Leasehold Lenders set forth in Section 16.3.1, City shall have the right to exercise all remedies provided for herein, including, without limitation, the right to terminate this Lease as set forth in Section 15.5.1.2.

3.3 Method of Payment. Tenant shall pay all Rent to City in lawful money of the United States of America at City of Costa Mesa, 77 Fair Drive, Costa Mesa CA 92626, Attention: City Manager, unless City instructs Tenant in writing to deliver payment to another address, or unless this Lease specifically provides another place for payment.

3.4 No Cost to City: No Counterclaim, No Abatement. Except as otherwise expressly provided in this Lease, the Rent payable under this Lease shall be absolutely net to City, so that this Lease shall yield to City the full amount of the Annual Base Rent and the Additional Rent throughout the Term. Except as otherwise expressly provided in this Lease, Tenant shall pay Rent without assertion of any counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction.

ARTICLE 4 TAXES, ASSESSMENTS AND OTHER CHARGES

4.1 Impositions. Tenant agrees to pay, or cause to be paid, prior to delinquency but subject to the right to contest, to the proper authority, any and all valid taxes, assessments, impositions, fees and similar charges on the Premises which become effective after the Effective Date of this Ground Lease, including all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Premises (collectively, "**Impositions**"). Tenant shall not permit any Impositions to become a defaulted lien on the Premises or the Project Improvements thereon; provided, however, that in the event any Imposition is payable in installments, Tenant may make, or cause to be made, payment in installments; and, provided further, that Tenant may contest the legal validity or the amount of any tax, assessment, imposition, fee or similar charge, through such proceedings as Tenant considers necessary or appropriate, and Tenant may defer the payment thereof so long as the validity or amount thereof shall be contested by Tenant in good faith and without expense to the City. In the event of any such contest, Tenant shall protect, defend and indemnify the City against all loss, cost, expense or damage resulting there from, and should Tenant be unsuccessful in any such contest, Tenant shall forthwith pay, discharge, or cause to be paid or discharged, such tax, assessment, imposition, fee or other similar

charge. City hereby consents to and shall reasonably cooperate and assist with Tenant applying for and obtaining any applicable exemptions from taxes or assessments levied on the Premises, the Project Improvements or on Tenant's interest therein. Tenant shall have no obligation to pay Impositions pursuant to this Section that are due and payable prior to the Effective Date, including but not limited to any taxes, assessments, impositions, fees or other charges levied against the Premises which are incurred prior to the Effective Date.

4.2 **Possessory Interest Tax.** In accordance with the requirements of California Revenue and Taxation Code Section 107.6, Tenant is hereby informed that this Ground Lease will create a possessory interest in Tenant in the Premises, that the possessory interest of Tenant may be subject to property taxation and that Tenant may be subject to the payment of property taxes levied on Tenant's possessory interest in the Premises. Any possessory interest tax shall be included in the definition of "Imposition."

4.3 **Services.** Tenant shall pay before delinquency all charges for gas, water, electricity, light, heat or power, telephone or other communication service, sewer, trash removal, cable and all other services or utilities used during the Term in, upon or about the Premises by Tenant or any of its contractors, subcontractors, employees, subtenants, licensees, invitees, subtenant or assignees. Tenant shall also obtain, or cause to be obtained, without cost to City, any and all necessary permits, licenses or other authorizations required for the lawful and proper installation and maintenance upon the Premises of wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any service to and upon the Premises.

ARTICLE 5 CONSTRUCTION OF THE PROJECT IMPROVEMENTS

5.1 **Construction.** Tenant shall cause the Project Improvements to be constructed in compliance with the construction plans and specifications for the Project Improvements that have been previously approved by City, as amended from time to time with the approval of the City and "Senior Lender" (as defined in Section 12.1). Any and all Project Improvements constructed by or on behalf of Tenant shall be constructed at Tenant's sole expense and in a good and workmanlike manner, in compliance with all "Applicable Laws" (as defined in Section 6.3).

5.2 **No Liens.** Tenant shall not have any right, authority or power to bind City or City's fee estate in the real property comprising the Premises, for any claim for labor or material or for any other charge or expense, lien or security interest incurred in connection with the development, construction or operation of the Project Improvements or any change, alteration or addition thereto.

Tenant shall promptly pay and discharge all claims for work or labor done, supplies furnished or services rendered at the request of Tenant and shall keep the Premises free and clear of all mechanics' and materialmen's liens in connection therewith. If any claim of lien is filed against the Premises or a stop notice is served on City or other third party in connection with the development, construction or operation of the Project Improvements or any change, alteration or addition thereto, then Tenant 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 City a surety bond in sufficient form and amount, or provide City with other assurance reasonably satisfactory to City that the claim of lien or stop notice will be paid or discharged,

provided that City provides written notice of such claim of lien or stop notice to Tenant promptly upon receipt by City.

If Tenant fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section, then in addition to any other right or remedy, City may (but shall be under no obligation to) discharge such lien, encumbrance, charge, or claim at Tenant's expense and, Tenant shall pay to City as Additional Rent any such amounts expended by City within thirty (30) days after written notice is received from City of the amount expended. Alternately, City may require Tenant to immediately deposit with City the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. City may use such deposit to satisfy any claim or lien that is adversely determined against Tenant.

Tenant shall file a valid notice of cessation or notice of completion upon cessation of construction on the Project Improvements for a continuous period of thirty (30) days or more, except in the event such cessation of construction is caused by adverse weather conditions, and shall take all other reasonable steps to forestall the assertion of claims of lien against the Premises. City shall have the right to post or keep posted on the Premises, or in the immediate vicinity thereof any notices of non-responsibility for any construction, alteration or repair of the Premises by Tenant. Tenant authorizes City, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that City deems necessary or desirable to protect its interest in the Premises.

5.3 **Permits, Licenses and Easements.** Tenant shall be responsible for obtaining any and all permits, licenses, easements and other authorizations required by any governmental entity with jurisdiction over the Premises and/or Project Improvements with respect to any construction or other work to be performed on the Premises and to grant or cause to be granted all permits, licenses, easements and other governmental authorizations that are necessary for electric, telephone, gas, cable television, communication, water, storm drain, sewer, sewer treatment, drainage, access and such other public or private utilities, facilities or infrastructure as may be reasonably necessary or desirable in connection with the construction or operation of the Project Improvements. Tenant shall be entitled to tap into any existing lines, facilities and systems of applicable electric, gas, cable, water, sewer, sewer treatment and other utilities serving the Premises or adjacent real property, provided that Tenant remains responsible for payment of such connection fees therefor as are required by the City or any applicable private or public utility, and Tenant shall maintain utility service accounts that are separate from any City utility service accounts.

5.4 **Benefits of Project Improvements During Term.** Notwithstanding the leasehold interest herein conveyed and anything herein to the contrary, at all times during the Term, beneficial title to the Premises shall be vested in Tenant and Tenant alone shall be entitled to all of the tax attributes of ownership. City acknowledges and agrees that any and all depreciation, amortization, profits, losses, income and tax credits for federal or state tax purposes relating to the Project Improvements located on the Premises and any and all additions thereto, substitutions therefor, fixtures therein and other property relating thereto shall be deducted or credited exclusively to Tenant during the Term and for the tax years during which the Term begins and ends.

ARTICLE 6 USE OF PREMISES

6.1 **Permitted Uses.** Tenant shall use the Premises for the sole and exclusive purpose of constructing, developing, operating and maintaining a senior affordable rental housing community and ancillary uses pursuant to plans approved by the City (the “**Permitted Use**”), and for no other purpose without the prior written consent of City, which consent City may withhold in its sole and absolute discretion. Tenant acknowledges that City has entered into this Lease and has agreed to the Rent structure contained herein in material reliance on Tenant’s agreement to permit only those uses described herein. In the event Tenant requests a change in any use described herein, Tenant agrees that City, in its sole and absolute discretion, may withhold consent to such a request or that City properly may condition consent to any change in use on a renegotiation of the Rent structure or amounts. Further, Tenant acknowledges that City has determined that this use is beneficial to City’s overall governmental purposes and Tenant understands that City has no obligation to consent to any other use of all or any part of the Premises. Except as contemplated in the Permitted Use, no other buildings, structures, fences, barriers or other infrastructure shall be built on the Premises without express written consent of City. Notwithstanding anything to the contrary in this Section 6.1, Tenant’s use of the Premises shall be in compliance with the terms of the City Easement Agreement.

6.2 **Continuous Use.** City has agreed to accept a fixed Annual Base Rent and has entered into this Lease in reliance on Tenant’s continued operation of the Project for the Permitted Use. Tenant’s failure to operate the Project as required for more than thirty (30) continuous days, or for more than sixty (60) days in any twelve-month period shall be an Event of Default; provided that Tenant shall be excused from operating the Project during any Unavoidable Delay (as defined in Section 17.6).

6.3 **Compliance by Tenant with Laws and Governmental Regulations.** Tenant, at its sole cost and expense, promptly shall comply with all present and future laws, statutes, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governmental entities, including the City (“**Applicable Law(s)**”) which are applicable to the Premises or to the use or manner of use of the Project Improvements by the owners, tenants or occupants thereof, whether or not such law, statute, ordinance, order, rule, regulation or requirement shall necessitate structural changes or improvements, or the removal of any encroachments or projections, ornamental, structural or otherwise, onto or over the streets adjacent to the Premises, or onto or over other property contiguous or adjacent thereto.

6.4 **Tenant Right to Contest.** Tenant, at its sole cost and expense, shall have the right to contest, by appropriate proceedings diligently conducted in good faith in the name of Tenant, the validity or application of any Impositions or Applicable Law. If compliance with any Applicable Law legally may be delayed pending the prosecution of any such proceeding without cost or penalty and without subjecting Landlord to any liability, civil or criminal, Tenant may delay compliance until the final determination of such proceeding.

6.5 **Compliance with Recorded Documents.** Tenant shall comply with all recorded documents that constitute valid encumbrances on the Premises including, without limitation, the City Easement Agreement, any reciprocal easement agreements or covenants, conditions and

restrictions relating to the on-site drainage system; provided, however, that under no circumstances shall a Leasehold Lender (or its successors) be required to comply with any encumbrances on the Premises that are subordinate in priority to its Leasehold Mortgage (including, if or when the Leasehold Lender becomes the Tenant hereunder).

6.6 **Nuisance.** Tenant shall not use the Premises or the Project Improvements for any unlawful purpose and shall not perform, permit or suffer any act of omission or commission upon or about the Premises or the Project Improvements which would result in a nuisance or a violation of Applicable Law.

ARTICLE 7 SURRENDER AND RIGHT TO REMOVE

7.1 Ownership During Term.

7.1.1 **Project Improvements.** All Project Improvements shall be and remain the property of Tenant during the Term. City acknowledges and agrees that any and all depreciation and amortization for federal or state tax purposes relating to the Project Improvements, fixtures therein and other property relating thereto will be deducted or credited exclusively to Tenant during the Term and for the tax years during which the Term begins and ends.

7.1.2 **Personal Property.** Tenant shall provide all personal property reasonably required for normal operation of the Premises to the standard required in this Lease, the Regulatory Agreement and Declaration of Covenants and Restrictions (“**Regulatory Agreement**”) and the AH/DDA. All personal property, furnishings, fixtures and equipment in, on or around the Project, whether installed by Tenant or installed prior to the Commencement Date, which are attached to the Project and can be removed without substantial damage to the Project Improvements or the Premises shall be the personal property of Tenant (the “**Personal Property**”). At any time during the Term, Tenant shall have the right to remove the Personal Property, provided Tenant shall repair any damage caused by the removal of Personal Property and shall replace the removed Personal Property with property of equal or better quality as and to the extent required for the continued operation of the Project to the standard required in this Lease. Personal Property shall exclude any portion or part of major building components or fixtures necessary for the operation of the basic building systems for the Project (such as floor covering, window coverings, elevators, escalators, chillers, boilers, plumbing, electrical systems, lighting, sanitary fixtures and HVAC systems), which items shall be deemed part of the Project Improvements.

7.2 Ownership at Lease Termination.

7.2.1 **Project Improvements.** Upon Lease Termination, the Project Improvements shall unconditionally be and become the property solely of City, without compensation to Tenant and this Lease shall operate as a conveyance and assignment thereof. Upon Lease Termination, Tenant shall surrender to City the Premises and the Project Improvements in reasonably good condition and repair, reasonable wear and tear excepted, free and clear of all liens, claims, and encumbrances other than liens, claims and encumbrances existing or established as of the Effective Date or other matters consented to by City in writing. The foregoing, however, will be subject to the rights of the residents who are authorized by Tenant to

occupy the Premises (such residents, the “Project Subtenants”) or others in possession pursuant to a sublease with Tenant, provided that such Project Subtenants are not in default thereunder and attorn to City as their lessor. Tenant shall deliver the Quitclaim Deed as provided in Section 2.3. “**Reasonable wear and tear**”, when used in this Lease, shall mean wear and tear caused by aging, use and other conditions which occurs notwithstanding the application of standards for maintenance, repair and replacement typical of other similar affordable housing projects in the Project area of comparable age. Reasonable wear and tear is not intended, nor shall it be construed, to include items of neglected or deferred maintenance which would have or should have been attended to during the Term had the required standards for maintenance, repair and replacement had been applied.

7.2.2 Personal Property. Any Personal Property of Tenant which remains on the Premises for thirty (30) days after the Lease Termination shall unconditionally be and become the property solely of City without compensation to Tenant and this Lease shall operate as a conveyance and assignment thereof.

7.3 Condition of Project Improvements.

7.3.1 Condition of Project at Lease Termination. City has entered this Lease in reliance on the fact that, at Lease Termination, City will receive from Tenant the Project Improvements in the condition required by Section 7.2. In addition to City’s right to inspect pursuant to applicable law and set forth in Section 10.1 and 15.2, at any time during the last twenty-four (24) months of the Term, City may inspect the Project Improvements to confirm that the Project Improvements are being properly maintained as required herein. Following its inspection, City may deliver to Tenant written notification of any portions of the Project Improvements which City has determined are not being properly maintained and Tenant shall promptly comply with the provisions of this Lease regarding such items; provided, the failure of City to inspect or to notify Tenant of any default hereunder shall not be a waiver of City’s right to enforce Tenant’s maintenance and repair obligations hereunder.

7.3.2 Environmental Report. Prior to the expiration of the Term, City shall have the right, at its sole cost, to have an environmental report of the Premises prepared that assesses the existence on the Premises of any “Hazardous Materials” (as defined in Article 18).

7.4 Survival. The provisions of this Article 7 shall survive Lease Termination.

ARTICLE 8 INSURANCE

8.1 Tenant’s Insurance. During the Term, Tenant shall keep and maintain in force, at no cost or expense to City, the following insurance, all of which shall be provided by companies and/or agencies approved to do business in the State of California:

8.1.1 Premises Insurance. “All risk” insurance covering all risks of physical loss or damage to any of the Improvements, with liability limits of not less than one hundred percent (100%) of the “full replacement value” thereof, which insurance shall be provided by Tenant on the Commencement Date. Such policies shall be broad form and shall include, but shall not be limited to, coverage for fire, extended coverage, vandalism, malicious mischief and storm. Perils

customarily excluded from all risk insurance, e.g., terrorism, earthquake and flood, may be excluded.

8.1.2 General Liability Insurance. Commercial general liability and automobile liability insurance, covering loss or damage resulting from accidents or occurrences on or about or in connection with the Improvements or any work, matters or things under, or in connection with, or related to this Lease, with personal injury, death and property damage combined single limit liability of not less than Two Million Dollars (\$2,000,000) for general liability and One Million Dollars (\$1,000,000) for automobile liability for each accident or occurrence. Tenant shall include City as an additional insured on Tenant's commercial general liability insurance policy and shall provide City a certificate of insurance detailing the coverage limits outlined in this Section 8.1.2 within thirty (30) days after the Commencement Date of this Lease. City shall have the right, upon sixty (60) days' notice to Tenant, to increase the required amount of General Liability and Auto Liability coverage during the term of this Lease; provided, however, that (i) any such increased limits shall be commercially reasonable for multifamily senior housing developments in Southern California that are similar in size and amenities to the Project Improvements, (ii) any such limits shall not render the operation of the Project Improvements pursuant to the requirements of the Regulatory Agreement financially infeasible as demonstrated by Tenant, and (iii) City may not impose any such increase more than once every five (5) years.

8.1.3 Workers' Compensation Insurance. Tenant shall carry or cause to be carried Workers' Compensation insurance with limits as required by the State of California.

8.1.4 Builders' Risk Insurance. As of the Commencement Date and until completion of construction of the Project Improvements, Tenant shall provide builders' risk insurance for not less than the value of the construction contract, combined single limit for bodily injury or property damage insuring the interests of City, Tenant and any contractors and subcontractors.

8.2 General Requirements. All policies described in Article 8 shall include City and Tenant, together with any Leasehold Lenders, as named insureds, as their respective interests may appear. All policies described in Section 8.1 shall contain (a) the agreement of the insurer to give City and each Leasehold Lender, as applicable, at least thirty (30) days' notice prior to cancellation (ten (10) days for non-payment of premium); (b) an agreement that such policies are primary and non-contributing with any insurance that may be carried by City; (c) a provision that no act or omission of Tenant shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; (d) a waiver by the insurer of all rights of subrogation against City and its authorized parties in connection with any loss or damage thereby insured against; and (e) terms providing that any loss covered by such insurance may be adjusted with City, Tenant and the holder of a Leasehold Mortgage, but shall be payable to the holder of any Leasehold Mortgage, who shall agree to receive and disburse all proceeds of such insurance.

8.3 Evidence of Insurance. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by this Lease at any time.

8.4 Failure to Maintain. If Tenant fails to maintain such insurance, City, at its election, may procure such insurance as may be necessary to comply with the above requirements (but shall not be obligated to procure same), and Tenant agrees to repay to City as Additional Rent the cost of such insurance.

8.5 Acceptability of Insurers. Insurance is to be placed with insurers with a current AM Best's rating of no less than A: VII.

8.6 Loss Payable Endorsements. Tenant agrees that the names of the Leasehold Lenders may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant hereunder.

ARTICLE 9 INDEMNIFICATION BY TENANT

9.1 Indemnification by Tenant. Excluding loss, injury or damage to the extent caused by the gross active negligence or willful misconduct of City or any of the "Indemnitees" (as defined below), Tenant shall indemnify, defend and hold harmless City, its officers, agents, employees, volunteers or contractors (collectively, the "**Indemnitees**") from and against any and all claims, liability, loss, injury or damage by or on behalf of any person, firm or corporation arising during the Term to the extent arising from any conduct by any party on, management of or any work or thing whatsoever done in or on the Premises or Project Improvements. Such defense shall be provided by the attorneys (i) selected by City, or (ii) at City's election, selected by Tenant and reasonably acceptable to City. Further, Tenant shall indemnify and save the Indemnitees harmless against and from any and all claims, liability, loss, injury or damage by or on behalf of any person, firm, or corporation to the extent arising during the Term from (i) any condition of any building, structure or improvement on the Premises, or of any passageways or spaces therein or appurtenant thereto; (ii) Tenant's breach or default in the performance of any of its covenants or agreements under this Lease; (iii) any negligence of Tenant, or any of its agents, contractors, subcontractors, or employees; (iv) any accident, injury or damage whatsoever caused to any person, firm or corporation occurring during the Term in or on the Premises or the Project Improvements or any passageways or spaces therein or appurtenant thereto; or (v) from the furnishing of labor or materials by Tenant or any of its agents, contractors, subcontractors or employees. Tenant's indemnification obligation shall include all costs, attorney's fees, expenses and liabilities incurred in defending City against any such claim, action or proceeding. If an insurer under insurance required to be maintained by Tenant hereunder shall undertake to defend the City under a reservation of rights with respect to ultimate coverage and City in its reasonable discretion shall deem it necessary to retain independent counsel with respect to such matter, Tenant shall pay the reasonable fees of such counsel. Tenant shall reimburse City for all costs, reasonable attorneys' fees, expenses and liabilities incurred with respect to any litigation in which Tenant contests its obligation to indemnify, defend and hold harmless City under this Lease and does not prevail in that contest. It is the intent of the parties to this Lease to provide the broadest possible coverage for the City. Tenant's obligations under this Section shall survive the termination or expiration of this Lease. For purposes of this Section 9.1, the term "volunteers" shall mean persons who are not paid employees of City but are subject to a screening process similar to that used for paid employees.

ARTICLE 10
REPAIRS, CHANGES, ALTERATIONS AND NEW CONSTRUCTION

10.1 **Repairs and Maintenance.** Subject to the other provisions of this Lease, Tenant shall keep the Premises at all times in a habitable condition, and in good and habitable operating order, reasonable wear and tear excepted. The standard for maintenance and repair of the Premises shall be the same as for other similar housing projects in Orange County of similar size, and of comparable age and in accordance with all applicable local, state and federal laws. Tenant shall make all necessary repairs and perform all maintenance, interior and exterior, structural and nonstructural, ordinary as well as extraordinary, whether contemplated or not contemplated at the time of signing of this Lease, to keep the Premises to the standard described above in a well maintained and habitable condition. The term “**repairs**” shall include replacements or renewals when reasonably necessary to satisfy the above standard, and all repairs made by Tenant shall be at least equal in quality and class to the original work. Tenant waives any rights created under any law now or hereafter in force to make repairs to the Premises at City’s expense. From time to time during the Term, City may enter the Premises during regular business hours upon not less than seventy-two (72) hours’ prior written notice from City to determine if Tenant is in compliance with the requirements of this Article. Notwithstanding the foregoing, however, no such notice is required to enter onto the areas of the Premises improved with the driveway to the public right-of-way, drive aisles or surface parking. If, following any such inspection by City, City delivers notice of any deficiency to Tenant, Tenant shall promptly prepare and deliver to City Tenant’s proposed plan for remedying the indicated deficiencies. City’s failure to deliver, following any City’s inspection, any notice of deficiency to Tenant, shall not be deemed to be City’s approval of the then condition of the Premises, nor City’s waiver of any default by Tenant under this Article 10.

10.2 **Changes and Alterations.** Except as permitted by Section 10.3, Tenant shall not make any changes, alterations, replacements or additions in, to or of the Project Improvements (“**Alterations**”) without the prior written consent of City, which City shall not unreasonably withhold or delay so long as all the following are complied with by Tenant:

- (a) Tenant shall pay all costs and expenses related to the Alterations;
- (b) The Alteration shall not result in a decrease in the value of the structural improvement to which it is being made;
- (c) The Alteration shall be for a use which is permitted hereunder and shall not be materially and adversely inconsistent with the plans approved by City in connection with the Project Improvements;
- (d) Tenant shall obtain and pay for, all required permits and authorizations of any federal, state or municipal government or departments of any of them, having jurisdiction. City shall join in the application for permits or authorizations whenever necessary. City shall incur no liability or expense in connection with its cooperation and Tenant shall reimburse City for City’s out-of-pocket, reasonable attorneys’ fees;

(e) Any Alteration shall be made in a good and workmanlike manner and in accordance with all applicable permits and authorizations and building and zoning laws and with all other Applicable Laws;

(f) During the period of construction of any Alterations, Tenant shall maintain or cause to be maintained applicable insurance described in Article 8 which policy or policies by endorsement thereto, if not then covered, shall also insure any change, alteration or addition or new construction, including all materials and equipment incorporated in, on or about the Premises (including excavations, foundations and footings) under a broad form (or equivalent) builders' risk form.

10.3 **Exceptions to Consent Requirement.** The foregoing notwithstanding, Tenant shall not be required to obtain City's prior written consent to any Alterations so long as (i) the Alteration is non-structural, and (ii) the Alteration has a cost of less than \$250,000, provided, however, that nothing contained herein shall relieve Tennant from the obligation to first obtain any and all required permits and inspections from City and any other governmental entity with jurisdiction, pursuant to Applicable Law.

10.4 **No Right to Demolish.** Notwithstanding any other provisions of this Article 10 and except as otherwise permitted in this Lease, Tenant shall have no right to demolish any Project Improvement, once built, unless Tenant shall have received the prior written consent of City, which City may withhold in its sole and absolute discretion, it being agreed that City has entered into this Lease in material reliance on Tenant's covenants to operate and maintain the Project Improvements in accordance with the provisions of this Lease.

ARTICLE 11 RECORD KEEPING

11.1 **Record Keeping.** Tenant shall keep and maintain full and complete books of account and other records reflecting the results of operations of the Project in accordance with accounting practices and principles reasonably acceptable to City and consistently applied.

ARTICLE 12 DAMAGE AND DESTRUCTION

12.1 **Damage or Destruction.** If the Project Improvements are damaged or destroyed, then except as otherwise provided in this Article 12, Tenant shall restore and rebuild the Project Improvements as nearly as practicable to their condition immediately prior to such damage or destruction or with such changes or alterations as may be in conformity with the provisions of this Lease relating to the changes or alterations. To the extent sufficient insurance proceeds are available therefor, as reasonably determined by Tenant, and subject to the terms of any Leasehold Mortgage, upon a damage or destruction, all insurance proceeds paid in respect of the damage or destruction shall be applied to the payment of the costs of the restoration required to be performed by Tenant pursuant to this Lease. Any insurance proceeds made available to Tenant shall be held in trust by a financial institution agreed upon by City and Tenant or, if required by a Leasehold Lender, by any Leasehold Lender at the election of the Leasehold Lender with the most senior Leasehold Mortgage (the "**Senior Lender**") (as applicable, the "**Insurance Trustee**"), with the

costs of such trust to be a first charge against the insurance proceeds. After completion of the restoration of the Project Improvements, and expiration of all lien periods without any lien being filed, any remaining insurance proceeds shall be paid to the Senior Lender to be applied as provided in the Leasehold Mortgage, and once such lien is satisfied, thereafter to the holder of the Leasehold Mortgage next in lien priority until each encumbrance is satisfied, and, upon payment in full of the Leasehold Mortgages, the balance shall be payable to Tenant.

Notwithstanding the foregoing, in the event there is any damage or destruction to any portion of the Project Improvements such that: (a) there are not sufficient proceeds to pay for the costs to restore the Project Improvements, as determined by Tenant, (b) in the reasonable opinion of Tenant, the undamaged portion of the Project Improvements cannot be completed or operated on an economically feasible basis, and (c) no feasible source of third party financing for restoration reasonably acceptable to Tenant is available; then Tenant may, with the prior written consent of all Leasehold Lenders, terminate this Lease as of a date that is not less than ninety (90) days after the date of such notice. In the event this Lease is terminated in accordance with the preceding sentence, Tenant shall, at Tenant's sole cost, either raze the damaged portion of the Project Improvements and remove any debris relating thereto, or repair the Project Improvements in a manner sufficient to cause the Project Improvements to be in a safe condition in compliance with applicable laws and other applicable governmental requirements, and following the completion thereof, Tenant shall surrender possession of the Premises to City immediately and the remaining insurance proceeds not used to raze or repair the Project Improvements shall be paid to the Senior Lender to be applied as provided in the Leasehold Mortgage, and once such lien is satisfied, thereafter to the holder of the Leasehold Mortgage next in lien priority until each encumbrance is satisfied, and, upon payment in full of the Leasehold Mortgages, the balance shall be assigned to City.

12.2 **Damage or Destruction Near End of Term.** If, during the last seven (7) years of the Term, the Project Improvements shall be damaged or destroyed, then, subject to the prior written consent of each Leasehold Lender, Tenant shall have the option, to be exercised within one hundred twenty (120) days after such damage or destruction:

(a) to repair or restore the Project Improvements as provided in this Article 12;
or

(b) subject to the rights of Leasehold Lenders, to terminate this Lease by notice to City, which termination shall be deemed to be effective as of the date of the damage or destruction. If Tenant terminates this Lease pursuant to this Section 12.2, Tenant shall surrender possession of the Premises to City immediately and assign to City (or, if same has already been received by Tenant, pay to City) all of its right, title and interest in and to the proceeds from Tenant's insurance upon the Premises, subject to the prior rights of any Leasehold Lender therein.

12.3 **Restoration.** Tenant shall carry out the restoration to full completion as soon as practicable. Tenant shall commence work on the restoration of any damage or destruction no later than the latest of: (a) one hundred twenty (120) days following the damage or destruction, (b) the date Tenant receives insurance proceeds, and (c) the date on which all applicable approvals have

been obtained to commence the restoration work, provided, however, that Tenant shall commence to seek all applicable approvals within one hundred eighty (180) days following the damage or destruction.

12.3.1 **Disbursement of Funds.** The Insurance Trustee shall disburse funds only on a periodic basis approved by City and Tenant and only upon receipt of invoices and other documentation, certified as correct by Tenant’s architect, evidencing satisfactory completion of the work for which payment is requested (“**Payment Request**”). Further, the Insurance Trustee shall not disburse any funds unless the payment request is accompanied by (i) signed conditional waiver and release on progress payment in form complying with California law relating to all labor and materials described in the Payment Request and (ii) signed unconditional waiver and release upon progress payment in form complying with California law releasing all claims for labor and materials described in the immediately preceding Payment Request.

12.4 **Notice Required.** In the event of material damage to or destruction of the Project Improvements, Tenant shall promptly give City notice of such occurrence and take all actions reasonably required to protect against hazards caused by such damage or destruction. For purposes of this Article 12, damage or destruction shall be deemed to be material if the estimated cost to repair equals or exceeds \$100,000.

12.5 **Right to Participate in Settlement.** City, Tenant, and each Leasehold Lender shall have the right to participate in the negotiation, settlement or compromise of any insurance claims made against Tenant’s insurance policies.

12.6 **Survival.** City’s and Tenant’s rights and obligations under this Article 12, including their rights to receive proceeds, shall survive any termination of this Lease.

ARTICLE 13 EMINENT DOMAIN

13.1 **Eminent Domain.**

13.1.1 **Definitions.** The following definitions shall apply in construing the provisions of this Article 13:

13.1.1.1 **Award.** “**Award**” means all compensation, damages or interest, or any combination thereof, paid or awarded for the Taking, whether pursuant to judgment, by agreement, or otherwise.

13.1.1.2 **Notice of Intended Taking.** “**Notice of Intended Taking**” means any notice or notification on which a reasonably prudent person would rely and would interpret as expressing an existing intention of Taking as distinguished from a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a party to this Lease. The notice is considered to have been received when a party to this Lease receives from the condemning agency or entity a written notice of intent to take.

13.1.1.3 **Partial Taking.** “**Partial Taking**” means any Taking that is neither a Total Taking nor a Substantial Taking.

13.1.1.4 Substantial Taking. “**Substantial Taking**” means the Taking of so much of the Premises that the remaining portion thereof would not be economically and feasibly usable by Tenant, as reasonably determined by Tenant for the then existing uses and purposes of the Premises, but shall exclude a Temporary Taking.

13.1.1.5 Taking. “**Taking**” means any taking of or damage to, including severance damage, all or any part of the Premises or any interest therein by the exercise of the power of eminent domain, or by inverse condemnation, or a voluntary sale, transfer or conveyance under threat of condemnation in avoidance of the exercise of the power of eminent domain or while condemnation proceedings are pending.

13.1.1.6 Temporary Taking. “**Temporary Taking**” means the Taking of any interest in the Premises for a term certain which term is specified at the time of Taking. Temporary Taking does not include a Taking which is to last for an indefinite period or a Taking which will terminate only upon the happening of a specified event unless it can be determined at the time of the Taking substantially when such event will occur. If a Taking for an indefinite term should take place, it shall be treated as a Total, Substantial or Partial Taking in accordance with the definitions set forth herein.

13.1.1.7 Total Taking. “**Total Taking**” means the Taking of the fee title to all, or substantially all, of the Premises.

13.1.2 Notice. The party receiving any notice of the kind specified below shall promptly give the other party written notice and a copy of any:

- (a) Notice of Intended Taking;
- (b) Service of any legal process relating to condemnation of all or any portion of the Premises;
- (c) Notice in connection with any proceedings or negotiations with respect to such a condemnation; or
- (d) Notice of intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of condemnation.

City and Tenant, and any of their respective secured lenders, each shall have the right to represent its respective interest in each proceeding or negotiation with respect to a Taking or intended Taking and to make full proof of their respective claims. No agreement, settlement, sale or transfer to or with the condemning authority shall be made without the mutual agreement of City and Tenant and their secured lenders. City and Tenant each agree to sign, acknowledge and deliver to the other any instruments that may be reasonably required to effectuate or facilitate the provisions of this Lease relating to condemnation.

13.1.3 Total or Substantial Taking. In the event of a Total Taking or Substantial Taking, this Lease shall terminate, and Tenant’s interest in this Lease and all obligations of Tenant subsequently accruing hereunder shall cease, as of the first to occur of (i) the date of the vesting of title in the condemning authority or (ii) the date actual physical possession of all or part of the

Premises is taken by the condemning authority prior to the date of vesting of title. Tenant's obligations to pay Annual Base Rent and Additional Rent shall terminate as of such date.

13.1.4 **Partial Taking.** In the event of a Partial Taking, this Lease shall remain in full force and effect, covering the remainder of the Premises, except that this Lease shall be deemed amended such that the definition of the "Premises" shall include only that portion of the land described in Exhibit A attached that is not taken. There shall be no adjustment to Annual Base Rent or the Term.

In the event of a Partial Taking, Tenant, at its sole cost and expense subject to (and only to the extent of) receipt of an award by Tenant from the Taking agency specifically earmarked for severance damages, and Tenant's offset against such specific award of all costs incurred in procuring such award, shall restore the Project Improvements to a complete architectural unit, consistent with the requirements of this Lease, to the maximum extent feasible.

13.2 **Participation in Settlement Negotiations.** City, Tenant, and each Leasehold Lender shall have the right to participate in the negotiation, settlement or compromise of all awards, except for Temporary Taking awards.

13.3 **Survival.** City's and Tenant's rights and obligations under this Article 13, including their rights to receive proceeds, shall survive any termination of this Lease.

13.4 **Award.** Subject to the rights of Leasehold Lenders (as defined in Article 16 below), if there is a Taking, whether a Temporary Taking, Substantial Taking, Total Taking or Partial Taking, City and Tenant shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings, or as may be otherwise agreed, taking into consideration the fact that City's interest in the Premises is limited to the fee interest in the Premises (exclusive of the Project Improvements), as encumbered by this Lease and the City's interests pursuant to the City Easement Agreement, and, upon the expiration of the Term, a reversionary interest in the Premises and the Project Improvements. If the Premises shall be restored as is contemplated in Section 13.1.4, Tenant shall be entitled to recover the costs and expenses incurred in such restoration out of any Award. Thereafter, if the condemning authority does not make separate Awards, City and Tenant agree that any Award will be allocated on a proportionate basis. If City and Tenant are unable to agree as to amounts that are to be allocated to the respective interests of each party, then each party shall select an independent M.A.I. real estate appraiser (an "**Appraiser**"). Each Appraiser shall separately determine the amount of the balance of the Award that is to be allocated to the interests of each party. If the percentage of the balance of the Award each Appraiser allocates to City (a) are within ten percent (10%) of each other, the two (2) allocations shall be averaged, and such average shall be the final allocation of the Award, or (b) are not within ten percent (10%) of each other, the two (2) Appraisers shall then select a third Appraiser, who shall independently allocate the Award between City and Tenant, and the middle of such three allocations shall be the final allocation of the Award. Notwithstanding the foregoing, if required by a Leasehold Lender, Tenant's proportionate share of the Award shall be distributed to the Senior Lender to be disbursed in accordance with its Leasehold Mortgage, and once such lien is satisfied, thereafter to the holder of the Leasehold Mortgage next in lien priority until each encumbrance is satisfied, and, upon payment in full of the Leasehold Mortgages, the balance shall be payable to Tenant.

Notwithstanding the foregoing, in no event shall the Award paid to the Senior Lender be less than the lesser of (i) all amounts owing under the Leasehold Mortgage, and (ii) the total Award, minus the value of the land that was taken, as encumbered by this Lease and any regulatory agreement recorded against Tenant's leasehold interest in the Premises.

13.5 **City as Condemnor.** If City is the condemnor, then (i) City shall have no right to participate in the condemnation action in connection with its status as the landlord under this Lease on behalf of City as the owner in fee of the Premises, and (ii) the entire award shall be paid to Tenant.

ARTICLE 14 ASSIGNMENT, TRANSFER, SUBLETTING

14.1 **Restrictions on Transfer by Tenant.** Tenant acknowledges that the qualifications and identity of Tenant are of particular concern to City (i) in view of the importance of the development of the Premises to City and the general welfare of the community; (ii) because of City's desire that the Premises be operated by a tenant with demonstrated successful experience and success in constructing, managing and operating affordable housing in Orange County; (iii) because of the City's desire for the Project Improvements to be a high quality affordable housing project; and (iv) in light of City's desire for the operation on the Premises to be compatible with planned adjacent residential uses and City's affordable housing goals and objectives. Tenant further recognizes that it is because of Tenant's (and/or Tenant's partners') qualifications, reputation, experience and identity that City has entered into this Lease with Tenant. Tenant acknowledges that the restrictions on Transfer contained in this Article 14 are reasonable. For reference purposes, Tenant's right to grant security interests for the benefit of Leasehold Lenders securing loans for the Project is set forth in Article 16.

14.2 **Definition of Transfer.** "Transfer" means any of the events described below, whether the same occur voluntarily, involuntarily, by operation of law, or otherwise:

14.2.1 **Transfer of Interest in the Premises or Project.** Tenant's assignment, sublease, transfer, or conveyance of all, or any portion, of its interest in the Premises, the Project Improvements or this Lease.

14.2.2 **Transfer of Shareholder's Interest in Tenant.** If Tenant is a corporation, the assignment, conveyance or transfer by a controlling shareholder of a controlling interest in Tenant.

14.2.3 **Transfer of Interest in Tenant's Partners/Members.** If Tenant is a partnership or a limited liability company, the transfer of any controlling interest in any general partner (but not any limited partner) manager, or managing member (but not any other member) of Tenant.

14.3 **No Transfer Without Consent; Notices.** Except as otherwise provided in Section 14.4.3 or Article 15, Tenant shall not make or permit any Transfer except with City's prior written consent, which consent shall be given in City's sole and absolute discretion.

14.4 **Procedure.**

14.4.1 Transfer Request. With respect to each Transfer as to which City's approval is required hereby, Tenant shall send to City written request for City's approval of the Transfer (a "**Transfer Request**") specifying the name and address of the proposed transferee and its legal composition (if applicable). Each Transfer Request shall be accompanied by all of the following:

(a) An audited financial statement (or if no audited financial statement is available, a reviewed financial statement) of the proposed transferee (or its sponsors) for the three most recent calendar or fiscal years prepared in accordance with generally accepted accounting procedures by a nationally or regionally recognized certified public accounting firm, certified as true and correct by the proposed transferee (or its sponsors), sufficiently current and detailed to permit evaluation of the proposed transferee's (or its sponsors') assets, liabilities and net worth;

(b) A description of the nature of the interest proposed to be transferred, the portion or portions of the Premises affected by the Transfer, and the proposed effective date of such Transfer;

(c) If required, a true and complete copy of the proposed Assumption Agreement described in Section 14.8;

(d) A complete history of the proposed transferee (or its sponsor) describing its background, its current business operations and the background of the principals or personnel to be involved in the day to day operation of the Premises and stating whether the proposed transferee ever filed for bankruptcy or had projects that were foreclosed;

(e) A description of any substantial litigation in which the transferee (or its sponsor) has been involved within the preceding sixty (60) months;

(f) A description of all consideration to be given on account of the Transfer;
and

(g) Any such other information as reasonably requested by City within ten (10) business days following the receipt of the above information, in order for City to make an informed decision whether or not to approve or disapprove the Transfer.

14.4.2 Approval of City. Within thirty (30) days following receipt of all the information referred to in Section 14.4.1, City shall approve or disapprove, in its sole discretion, a Transfer Request, and if City disapproves the Transfer Request, it shall provide a written statement of the reasons for the disapproval. If City fails to give Tenant written notice of its approval or disapproval within the thirty (30) day period, City will be deemed to have approved the Transfer Request. Tenant shall pay the reasonable fees and charges of any accountants, attorneys and other consultants hired by City (but not any overhead of City staff) to review and assess any proposed transferee.

14.4.3 Exceptions to Consent Requirement. Notwithstanding anything to the contrary in this Lease, Tenant shall not be required to obtain City's prior consent (a) to enter into leases, subleases or occupancy agreements with occupants of residential units in the Project Improvements, provided the same otherwise comply with this Lease; (b) to a Transfer to an entity

which is a wholly owned subsidiary of Tenant or a manager of Tenant's general partner, or to a limited partnership or limited liability company formed for the tax credit syndication of the Project Improvements, where Tenant or its affiliated nonprofit public benefit corporation is the sole general partner or sole manager of that entity, and following the Transfer, the assignee will comply with all requirements of this Lease; (c) a transfer of Tenant's limited partner or non-managing member interests to an affiliate pursuant to Tenant's partnership or operating agreement; (d) removal of a general partner or manager of the Tenant for cause under the terms of the Tenant's partnership or operating agreement and replacement thereof by Tenant's special limited partner on a temporary basis or, another entity reasonably acceptable to City, so long as the general partner is replaced within 180 days with an organization that meets the requirements of Revenue and Taxation Code Section 214 for purposes of the welfare exemption; (e) transfers of the general partnership or manager's interest in Tenant to Jamboree Housing Corporation, a California nonprofit public benefit corporation ("JHC") or to another nonprofit public benefit corporation approved in advance by City; or (f) execution and delivery of a purchase option and right of first refusal to acquire Tenant's interest in the Premises in favor of JHC or another nonprofit affiliate thereof in connection with the tax credit syndication of the Project where such agreement has been previously approved by City, in City's reasonable discretion, in writing. In order for any Transfer described in this Section to be exempt from the requirement for City's consent, at least thirty (30) days before the effective Transfer date: (i) Tenant shall notify City of the pending Transfer; (ii) Tenant shall provide City with all information City reasonably requests regarding the transferee; (iii) Tenant shall deliver to City a copy of the proposed transfer documents in substantially final form; and (iv) Tenant shall deliver to City for reasonable approval the proposed Assumption Agreement described in Section 14.8. Within five (5) business days after the Transfer date, Tenant shall deliver to City fully executed copies of all transfer documents and the Assumption Agreement.

14.5 **Limitations.**

14.5.1 No Relief from Liability. If City consents to a Transfer, Tenant shall not be released from its liability for the performance of any of Tenant's obligations under this Lease occurring prior to the Transfer. If Tenant makes a Transfer for which City's consent is not required, Tenant shall not be released from its liability for the performance of any of Tenant's obligations under this Lease occurring prior to the Transfer.

14.5.2 No Consent If Bankruptcy. In no event shall City be required to consent, or be deemed to consent, to a Transfer to a party then subject to any proceedings under any insolvency, bankruptcy or similar laws.

14.5.3 Consent Not a Waiver. City's consent to any one Transfer shall not constitute a waiver of the provisions of this Article 14 with regard to any subsequent Transfer.

14.5.4 Threshold Criteria for Transfer. Although City may withhold its consent to a proposed Transfer for which City consent is required on any reasonable basis, City shall be deemed to be reasonable in withholding its consent to a proposed Transfer for which City consent is required if any of the following are not satisfied:

(a) In the case of any proposed Transfer (i) involving Tenant's assignment, transfer or conveyance of all or any portion of its interest in the Premises, the Project or this Lease, or (ii) involving the replacement of the Tenant's general partner, manager, or managing member, as the case may be, Tenant delivers to City an audited financial statement (or if no audited financial statement is available, a reviewed financial statement) of the proposed transferee (or its sponsors) for the three most recent calendar or fiscal years prepared in accordance with generally accepted accounting principles by a nationally or regionally recognized certified accounting firm demonstrating that the proposed transferee (or its sponsors) have sufficient financial ability to own, operate and manage the Project;

(b) In the case of any proposed Transfer involving Tenant's assignment, transfer or conveyance of all or any portion of its interest in the Premises, the Project or this Lease, the proposed transferee (or its sponsors) shall have a reputation and experience comparable to the transferor's reputation and experience constructing, operating and managing affordable housing projects in the Orange County area;

(c) The use of the Premises after the Transfer shall remain unchanged.

14.6 **Indemnity.** Tenant hereby agrees to indemnify and defend, with the attorneys (i) selected by City, or (ii) at City's election, selected by Tenant and reasonably acceptable to City, against, and hold it harmless from, any loss (including penalties, fines, reasonable counsel fees and disbursements) in connection with a claim or action by a transferee or other party which arises out of Tenant's actions or failure to act with respect to a Transfer including Tenant's breach or default under any agreement relating to the Transfer. Tenant also hereby agrees to indemnify and defend with the attorneys (i) selected by City, or (ii) at City's election, selected by Tenant and reasonably acceptable to City, City against, and hold it harmless from, any loss (including penalties, fines, reasonable counsel fees and disbursements) arising out of a claim or action by a subtenant or otherwise arising in connection with subletting. These indemnities shall not apply to any loss to the extent caused by City's default under this Lease or City's gross active negligence or willful misconduct.

14.7 **Involuntary and Other Transfers.** Without limiting any other restrictions on Transfer contained in this Lease, no interest of Tenant in this Lease, the Premises or the Project Improvements shall be assignable in the following manner:

(a) Under an order of relief filed, or a plan of reorganization confirmed, for or concerning Tenant by a bankruptcy court of competent jurisdiction under the federal bankruptcy act or under the laws of the State of California, whereby any interest in this Lease, the Premises or the Project Improvements is assigned to any party which does not qualify as an approved transferee pursuant to this Lease unless such order is filed or such plan is confirmed in connection with an involuntary proceeding brought against Tenant and Tenant reacquires such transferred interest within ninety (90) days after the date such order is filed or such plan is confirmed;

(b) If Tenant assigns substantially all of its assets for the benefit of its creditors;

(c) If an order of attachment is issued by a court of competent jurisdiction, whereby any interest in this Lease, the Premises or the Project Improvements or substantially all

of Tenant's assets are attached by its creditors and such order of attachment is not stayed within ninety (90) days after the date it is issued; or

(d) If a lien against any interest of Tenant in this Lease, the Premises or the Project Improvements, is foreclosed so that such interest is vested in a party other than Tenant, except under a Leasehold Mortgage.

14.8 **Assumption Agreement.** No Transfer involving Tenant's assignment, transfer or conveyance of all or any portion of its interest in this Lease, whether an Approved Transfer or one to which City has consented, shall be effective until City shall have received (where appropriate) an assignment and assumption agreement, executed by the transferor and the proposed transferee, in form reasonably acceptable to City ("**Assumption Agreement**").

ARTICLE 15 BREACHES, REMEDIES AND TERMINATION

15.1 **Event of Default.** Tenant shall be in default under this Lease on the occurrence of any of the following (each, an "**Event of Default**"):

15.1.1 **Monetary Obligation.** Tenant fails to pay any amount owing under this Lease when due, and such failure shall continue for thirty (30) days after Tenant receives Notice of Breach (as defined in Section 15.4.1); or

15.1.2 **Bankruptcy.** Tenant files a voluntary petition in bankruptcy or files any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator of Tenant or of all or any substantial part of its property, or of any or all of the royalties, revenues, rents, issues or profits thereof, or makes any general assignment for the benefit of creditors, or Tenant admits in writing its inability to pay its debts generally as they become due; or

15.1.3 **Reorganization.** A court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Tenant seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, unless the order, judgment or decree is vacated within one hundred twenty (120) days after the first date of entry thereof, or any trustee receiver or liquidator of Tenant or of all or any substantial part of its property, or of any or all of the royalties, revenues, rents, issues or profits thereof shall be appointed without the consent or acquiescence of Tenant (except under a Leasehold Mortgage), unless such appointment is vacated within one hundred twenty (120) days after the first date of entry thereof, (which one hundred twenty (120) day period shall be extended in all cases during any period Tenant is diligently pursuing a bona fide appeal); or

15.1.4 **Attachment.** A writ of execution or attachment or any similar process shall be issued or levied against all or any part of the interest of Tenant in the Premises, unless the execution, attachment or similar process is released, bonded, satisfied, or vacated or stayed within

one hundred twenty (120) days after the earlier of (a) Tenant's receipt of a Notice of Breach, or (b) Tenant's actual knowledge of its entry or levy, (which one hundred twenty (120) day period shall be extended during any period in which Tenant is diligently pursuing a bona fide appeal); or

15.1.5 Continuous Operation. Tenant fails to continuously maintain sufficient inventory and personnel on the Premises to operate the facility in accordance with Section 6.1, and other additional permitted uses in accordance with Section 6.2, and such failure is not cured within sixty (60) days after the earlier of (a) Tenant's receipt of a Notice of Breach, or (b) Tenant's actual knowledge of such failure.

15.1.6 Failure to Carry Insurance. Tenant fails to continuously maintain insurance coverage in accordance with Article 8 or fails to deliver a copy of a policy of insurance complying with the requirements of Article 8, and Tenant fails to remedy the default within fifteen (15) days after Tenant receives Notice of Breach;

15.1.7 Transfer. Tenant Transfers all or any portion of Tenant's interest in the Premises, the Project Improvements or in this Lease in violation of the provisions of Article 14.

15.1.8 Liens; Encumbrances. Tenant fails to pay real estate taxes or assessments on the Premises prior to delinquency, or places thereon any encumbrance or lien unauthorized by this Lease, including without limitation any Leasehold Mortgage and fails to discharge the same within thirty (30) days.

15.1.9 Non-Monetary Obligations. Subject to Unavoidable Delays, Tenant is in default of any other terms, provisions and covenants contained herein, and Tenant shall have failed to cure such default within sixty (60) days after Tenant receives Notice of Breach; provided, however, that if such a default with due diligence cannot be cured within sixty (60) days, then it shall not be an Event of Default unless Tenant fails to commence within sixty (60) days after it receives the Notice of Breach to cure the same or, thereafter, having begun to cure fails to prosecute the curing of such default continuously, with due diligence.

15.2 Entry and Inspection. City reserves and shall have the right upon not less than seventy-two (72) hours' prior written notice, or at any time in the case of emergency, to enter the Premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interest in the Premises, or to inspect the operations and management conducted thereon. Notwithstanding the foregoing, however, no such notice is required to enter onto the areas of the Premises improved with the driveway to the public right-of-way, drive aisles or surface parking. The rights reserved in this Section shall not create any obligation of any kind upon City.

15.3 Notice and Opportunity to Cure.

15.3.1 Notice of Breach. If required by another provision of this Lease, a party shall deliver to the non-performing party a written request to perform or remedy (the "**Notice of Breach**"), stating clearly the nature of the obligation which such non-performing party has failed to perform. If Tenant is afforded a cure period for such failure, the Notice of Breach shall state the applicable cure period, if any, provided hereunder.

15.3.2 Failure to Give Notice of Breach. The failure of a party to give, or delay in giving, Notice of Breach shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Lease, any failures or delays by either party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive such party of the right to institute and maintain any actions or proceedings which it may deem appropriate to protect, assert or enforce its rights or remedies.

15.4 Remedies Upon Default.

15.4.1 City's Remedies. If an Event of Default occurs, City shall have the following remedies, in addition to all other rights and remedies provided by law or otherwise provided in this Lease to which City may resort cumulatively or in the alternative:

15.4.1.1 City Right to Continue Lease. City may elect to keep this Lease in effect and enforce by an action at law or in equity all of its rights and remedies under this Lease, including (i) the right to recover Rent as it comes due by appropriate legal action, and (ii) the right to make payments required of Tenant or perform Tenant's obligations and be reimbursed by Tenant for the cost thereof with interest as provided in Section 15.9. For so long as this Lease continues in effect, City may enforce all of City's rights and remedies under this Lease, including the right to recover all Rent as it becomes due hereunder.

15.4.1.2 Terminate. Subject to the rights of the Leasehold Lenders, City may terminate this Lease by giving Tenant written notice of termination, in which event this Lease shall terminate on the date set forth for termination in such notice. Any termination under this Article 15 shall not relieve Tenant from its obligation to pay sums then due City or from any claim against Tenant for damage or rent previously accrued or then accruing. Upon Lease Termination hereunder, in accordance with applicable law City may re-enter the Premises and take possession thereof, and, except as otherwise provided herein, remove all persons and property therefrom, and store such property at Tenant's risk and for Tenant's account, and Tenant shall have no further claim thereon or hereunder. In no event shall this Lease be treated as an asset of Tenant after any final adjudication in bankruptcy except at City's option so to treat the same but no trustee, receiver, or liquidator of Tenant shall have any right to disaffirm this Lease.

15.4.1.3 No Deemed Termination. This Lease shall not terminate unless City, at City's option but subject to the rights of the Leasehold Lenders, elects to terminate Tenant's right to possession or, at City's further option, by the giving of any written notice (including any notice preliminary or prerequisite to the bringing of legal proceedings in unlawful detainer) to terminate Tenant's right to possession. For the purposes of this Lease, the following shall not constitute termination of Tenant's right to possession: (i) acts of maintenance or preservation or efforts to relet the Premises; or (ii) the appointment of a receiver upon initiative of City to protect City's interest under this Lease; or (iii) any other action by City intended to mitigate the adverse effects of any breach of this Lease by Tenant.

15.4.1.4 City Right to Perform. Upon the occurrence and continuance of an Event of Default, and without waiving or releasing Tenant from any obligation of Tenant

hereunder, City may (but shall not be required to) make such payment or perform such act on Tenant's part to be made or performed under this Lease, or pay for and maintain such insurance coverage required under Article 8, and City may enter the Premises for such purpose and take all such action thereon as may be reasonably necessary therefor. All sums paid by City and all costs and expenses incurred by City in connection with the performance of any such act (together with interest thereon at the Default Rate (as defined below) from the respective dates of City's making until paid) shall be paid within thirty (30) days after receipt of City's demand therefor and documentation of costs incurred.

15.4.2 Damages Upon Termination. If City terminates this Lease, City may recover from Tenant damages in an amount as set forth in California Civil Code section 1951.2 ("CC § 1951.2") as in effect on the Term Commencement Date. For purposes of computing damages pursuant to CC § 1951.2, the term "rent" means the Annual Base Rent and Additional Rent. City's CC § 1951.2 damages shall include:

(a) The worth at the time of award of the unpaid rent which is due, owing and unpaid by Tenant to City at the time of termination;

(b) The worth at the time of award of the amount by which the unpaid rent which would have come due after termination until the time of award exceeds the amount of rental loss that Tenant proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of rental loss which Tenant proves could be reasonably avoided; and

(d) All other amounts necessary to compensate City for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things are likely to result therefrom, including (i) expenses for cleaning, repairing and restoring the Premises for re-letting; (ii) and all costs (including attorneys' fees) of repossession; and (iii) all costs of removing persons or property from the Premises.

All computations of the worth at the time of award of amounts recoverable by City under subparagraphs (a), (b), and (d) above shall be computed by allowing interest at the Default Rate. For purposes of this Lease, the "**Default Rate**" shall equal the rate of interest most recently announced by Bank of America, N.T. & S.A., (or any successor bank) at its principal office in San Francisco as its "reference rate" serving as the basis upon which effective rates of interest are calculated for those transactions making reference thereto, but in no event in excess of the maximum rate of interest permitted under applicable law.

15.4.3 Injunction. Upon the occurrence of an Event of Default, City shall have the right to petition a court of competent jurisdiction for injunctive relief, in addition to all other remedies available to City under Applicable Law. Tenant's failure for any reason to comply with an injunction ordered by a court shall constitute an Event of Default under this Lease.

15.4.4 Right to Specific Performance. Upon the occurrence of an Event of Default, City shall have the right to commence an action against Tenant for specific performance.

Tenant's failure, for any reason, to comply with specific performance ordered by a court shall constitute an Event of Default under this Lease.

15.4.5 **Right to Receiver.** Following the occurrence of an Event of Default, if Tenant fails after receipt of a Notice of Breach to cure the default within any cure period set forth in the Notice of Breach, City, at its option but subject to the rights of Leasehold Lenders, may have a receiver appointed to take possession of Tenant's interest in the Premises, the Project Improvements and the Project with power in the receiver (i) to administer Tenant's interest in the Premises, the Project Improvements and the Project; (ii) to collect all funds available in connection with the operation of the Premises, the Project Improvements and the Project; (iii) to perform all other acts consistent with Tenant's obligations under this Lease, as the court deems proper; (iv) to apply the rents and any other sums received (less costs and expenses of operation and collection) to Rents due hereunder (and City shall not be responsible to any person for the collection or non collection of any such rents or income); (v) to take possession of the Tenant's leasehold estate and the Project Improvements, manage and operate the Project Improvements and Tenant's business thereon, and take possession of and use a Tenant's books of accounts and financial records and its property managers or representatives related to the Project Improvements; and (vi) otherwise take any and all actions with respect to the Project Improvements as may be permitted under applicable law or this Lease. Such rights to appoint a receiver shall be subject to and subordinate to the right of a Leasehold Lender to appoint a receiver.

15.5 **No Election of Remedies.** The rights given in this Article 15 to receive, collect or sue for any rent or rents, moneys or payments, or to enforce the terms, provisions and conditions of this Lease, or to prevent the breach or non-observance thereof, or the exercise of any such right or of any other right or remedy hereunder, shall not in any way affect or impair or toll the right or power of City upon the conditions and subject to the provisions in this Lease to terminate Tenant's right of possession because of any Event of Default.

15.6 **Survival of Obligations.** All rights of indemnification in this Lease shall survive Lease Termination. All obligations that accrue prior to Lease Termination likewise shall survive Lease Termination.

15.7 **No Cure After Termination.** No receipt of money by City from Tenant after the commencement of any suit or after final judgment for possession of the Project, shall renew, reinstate, continue or extend the right of Tenant to remain in possession of the Premises.

15.8 **Interest on Past Due Obligations; Late Charge.** Any amount due from Tenant to City hereunder which is not paid within thirty (30) days after receipt of a Notice of Breach shall bear interest at the Default Rate unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Tenant under this Lease. In addition, Tenant acknowledges that late payment by Tenant to City of Annual Base Rent or any other amount due City from Tenant will cause City to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impractical to fix. Such costs include, without limitation, processing and accounting charges. Further, Tenant acknowledges that City intends to make commitments to third parties based on the timely payment by Tenant of sums due hereunder. Therefore, if any payment due from Tenant is not received by City within thirty (30) days after receipt of a Notice of Breach, Tenant shall pay to City an additional sum of five percent (5%) of

the overdue payment as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs that City will incur by reason of late payment by Tenant. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount, nor prevent City from exercising any of the other rights and remedies available to City.

15.9 **Limitation of Liability.** Notwithstanding anything to the contrary in this Lease, Tenant's liability under this Lease (excluding damages claims for injury to property or persons) is limited to its interest in the leasehold estate.

15.10 **City's Default.** If City fails to timely and properly perform any of its obligations under this Lease, and such failure continues for thirty (30) days after City receives a Notice of Breach, City shall be in default under this Lease ("**City Default**"). If a default with due diligence cannot be cured within thirty (30) days, then there shall be a City Default only if City fails to commence within thirty (30) days after it receives the Notice of Breach to cure the same or, thereafter, having begun to cure fails to prosecute the curing of such default continuously, with due diligence. In the event of a City Default, Tenant shall be entitled to seek monetary damages against City.

ARTICLE 16

LEASEHOLD MORTGAGES, LEASEHOLD MORTGAGEE AND INVESTOR RIGHTS

16.1 **Consents to Leasehold Mortgages.** Tenant shall have the right during the Term to procure loans in connection with the Project (each, a "**Loan**") from a leasehold lender (each, a "**Leasehold Lender**") and to encumber Tenant's right, title and interest in the Premises and in the Project Improvements with one or more deeds of trust as a leasehold mortgage lien and any related regulatory agreements (each deed of trust and related regulatory agreement, collectively, a "**Leasehold Mortgage**"); provided, however, that any such Loans and Leasehold Mortgages shall not encumber City's fee interest in the Premises or its easement rights and such Leasehold Mortgages shall be subject to all the rights and obligations of Tenant contained in this Lease except as otherwise provided herein. Any loan (and the related Leasehold Mortgage) obtained by the tenant then hereunder from a commercial, governmental or other institution lender following foreclosure under the Senior Lender's Leasehold Mortgage or deed in lieu thereof, shall also constitute a "Loan" for all purposes hereunder, provided prior written notice of such Loan is provided to City.

16.2 **Preservation of Leasehold Benefits.** City agrees as follows:

16.2.1 **Voluntary Leasehold Termination.** Except as expressly authorized in Section 16.3 below, City will not voluntarily terminate, cancel or surrender this Lease or agree to the Tenant's termination, cancellation or surrender of this Lease, or amend or modify this Lease without the prior written consent of the Leasehold Lenders;

16.2.2 **Effect of Tenant Waiver.** City will not enforce against any Leasehold Lender any waiver or election made by Tenant under this Lease (whether through action or inaction) without the prior written consent of the Leasehold Lenders;

16.2.3 Notice to Leasehold Lenders. City will send to each Leasehold Lender a copy of any notice given by City to Tenant under this Lease at such address or addresses that have been provided to City in writing in accordance with Section 17.3; and

16.2.4 Recognition of New Tenant. Following foreclosure of a Leasehold Mortgage, or assignment in lieu thereof, City will recognize the purchaser or assignee of this Lease as the Tenant under this Lease at the rent, and upon the terms, provisions, covenants and agreements as herein contained and subject to the rights, if any, of any parties then in possession of any part of the Premises, subject to the following:

16.2.4.1 Obligations of New Tenant. That, following any foreclosure or assignment described in Section 16.10, the new Tenant shall be personally obligated only for performance of obligations under this Lease for the period commencing as of the date of such foreclosure or assignment and ending as of the date of any assignment of this Lease to a successor Tenant; and

16.2.4.2 Assignment by New Tenant. That, following any foreclosure or assignment described in Section 16.10, or the execution of a new lease pursuant to Section 16.9, the new Tenant and any successor Tenant shall have the right to assign this Lease (or the new lease) subject to the written consent of City, which consent shall not be unreasonably withheld or delayed.

16.3 Right of Leasehold Lender to Cure.

16.3.1 Notwithstanding anything to the contrary under this Lease, City shall have no right to terminate this Lease or exercise any other remedy under this Lease unless (a) an Event of Default has occurred, (b) City shall have given each Leasehold Lender written notice of such Event of Default, at such address or addresses that have been provided to City in writing in accordance with Section 17.3, and (c) such Leasehold Lenders shall have failed to remedy such default, acquire Tenant's leasehold estate created by this Lease, or commence foreclosure or commence other appropriate proceedings, in each case as set forth in, and within the time specified by, this Section.

16.3.2 All payments so made by a Leasehold Lender and all things so done by a Leasehold Lender shall be as effective to prevent a termination of this Lease as the same would have been if made and performed by Tenant.

16.3.3 A Leasehold Lender shall have the right, but not the obligation, at any time to pay any or all of the rent due pursuant to the terms of this Lease, and do any other act or thing required of Tenant by the terms of this Lease, which are necessary to prevent termination of this Lease after notice of an Event of Default. A Leasehold Lender shall have a right to enter the Premises upon prior written notice reasonably delivered to the City for purposes of accomplishing the foregoing, so long as such Leasehold Lender indemnifies and holds City harmless from any and all liability arising from such entry upon the Premises (except to the extent of liability arising from City's gross active negligence or willful misconduct). Each Leasehold Lender shall have ninety (90) days after receipt of written notice from City describing such Event of Default to cure such Event of Default; provided, however, that if it is not reasonably possible for any such

Leasehold Lender to effect a cure within ninety (90) days, no Event of Default shall occur under this Lease so long as the Leasehold Lender shall give notice to the City thereof, commence such cure within the ninety (90) day period and thereafter diligently prosecute cure to completion and further provided, if it is necessary for the Leasehold Lender to obtain possession of the Premises in order to effect a cure, the period within which the Leasehold Lender is permitted to effect a cure shall be extended by the time that is required for Leasehold Lender to obtain such possession, provided the Leasehold Lender (1) diligently prosecutes its rights to obtain possession, (2) cures monetary Events of Defaults that do not require possession, subject to Section 16.8 and the cure rights contained therein, and (3) after gaining title to the Premises or entering into a new lease pursuant to Section 16.9, the Leasehold Lender or its transferee cures all non-monetary Events of Default of Tenant hereunder reasonably capable of being cured by such Leasehold Lender.

16.3.4 If a Leasehold Lender is prohibited, stayed or enjoined by any bankruptcy, insolvency or other judicial proceedings from commencing or prosecuting foreclosure or other appropriate proceedings, the times specified for commencing or prosecuting such foreclosure, or other proceedings shall be extended for the period of such prohibition; provided that any Leasehold Lender shall have fully cured any Event of Default in the payment of any monetary obligations of Tenant under this Lease and shall continue to pay currently such monetary obligations when the same fall due; provided, further, that such Leasehold Lender shall not interfere with City's efforts to seek compliance by the Tenant with any non-monetary obligation under this Lease.

16.4 **Limitation on Liability of Leasehold Lender after Foreclosure.** No assumption of obligations by a Leasehold Lender shall be inferred from or result from foreclosure or as the result of any other action or remedy for Events of Default provided for by such Leasehold Mortgage or other instrument. No Leasehold Lender or its designee or transferee shall be or become liable to City under such circumstances unless it assumes liability under another written instrument executed by City and Leasehold Lender or its designee or transferee, and the liability of any Leasehold Lender shall be limited to the Leasehold Lender's interest in the leasehold estate. However, no Leasehold Lender may demolish or destroy the Premises or use the Premises for any use except as expressly agreed upon by City.

16.5 **Notice to City of Leasehold Mortgages.** Tenant shall provide written notice to City of the name and address of each Leasehold Lender and written notice of any changes in such parties and their addresses within ten (10) days of Tenant's receipt thereof in accordance with Section 17.3.

16.6 **No Modifications.** City and Tenant shall not amend or modify this Lease, except as provided in section 2.2 hereof, nor shall Tenant exercise any option or make any election by the Tenant without the prior written consent of the Leasehold Lenders.

16.7 **Loss Payee Endorsement.** City agrees that Tenant may add the names of each Leasehold Lender to the "Loss Payable Endorsement" of any insurance policies required to be carried by Tenant under this Lease on condition that the insurance proceeds are applied in the manner specified in the applicable Leasehold Mortgage.

16.8 **Cures.** No Leasehold Lender shall be required (a) to perform any act which is not reasonably susceptible to performance by such Leasehold Lender, such as to cure a filing or

condition of bankruptcy or insolvency, (b) to cure or commence the cure of any default which arises from Tenant's failure to pay any lien, charge or encumbrance which is junior in priority to the Leasehold Lender's encumbrance, or (c) to pay any amount owed by Tenant, based on an event which occurred before the Leasehold Lender or its designee or transferee took title to the leasehold in the Premises, accepted an assignment of this Lease or entered into a new lease for the Premises.

16.9 New Lease After Tenant Default.

16.9.1 City agrees that in the event of termination of this Lease by reason of any Event of Default by Tenant, or by reason of the disaffirmance hereof by a receiver, liquidator or trustee for Tenant or its property, or by any other reason, City will enter into a new lease with the Senior Lender or its designee requesting a new lease for the remainder of the Lease Term, effective as of the date of such termination, at the rent, and upon the terms, provisions, covenants and agreements as herein contained and subject to the rights, if any, of any parties then in possession of any part of the Premises, and such new lease shall enjoy the same priority in time and in right as this Lease over any lien, encumbrance or other interest created by City before or after the date of such new lease and shall vest in the Senior Lender or designee all right, title and interest of Tenant hereunder in and to the Premises, including, without limitation, the assignment of Tenant's interest in and to all then existing subleases and sublease rentals, provided:

16.9.1.1 The Senior Lender shall make written request upon City for the new lease at any time prior to the date that is ninety (90) days following the delivery by City to Senior Lender of written notice of termination of this Lease;

16.9.1.2 Subject to Section 16.8, the Senior Lender shall perform and observe all covenants herein contained on Tenant's part that accrue, become due, or are to be performed from and after the effective date of the new lease;

16.9.1.3 The new lease shall provide, with respect to each and every permitted sublease which immediately prior to the termination of this Lease was superior to the lien of the Senior Lender's Leasehold Mortgage, that Senior Lender or its designee shall be deemed to have recognized the subtenant under the sublease as though the sublease had never terminated but continued in full force and effect after the termination of the Lease, and to have assumed all of the obligations of the sublessor under the sublease accruing from and after the termination of this Lease, except that the obligation of the new Tenant, as sublessor, under any covenant of quiet enjoyment, express or implied, contained in such sublease shall be limited to the acts of such new Tenant and those claiming by, under or through such new Tenant; and

16.9.1.4 The rights granted any Leasehold Lender to a new lease shall survive any termination of this Lease for a period of ninety (90) days following receipt by the Senior Lender of the notice described in Section 16.9.1.1.

16.9.2 The tenant under the new lease shall have the same, right, title and interest in and to all Project Improvements, fixtures, and personal property as Tenant had under the terminated Lease immediately prior to its termination. City shall by grant deed or by the terms of the new lease convey to the Leasehold Lender or its designee, title to the improvements, if any, which become vested in City as a result of the termination of the Lease; and

16.9.3 Nothing herein contained shall require any Leasehold Lender to enter into a new lease pursuant to this Section 16.9.

16.10 **Recognition of Transferee**. Notwithstanding anything to the contrary contained herein, foreclosure of any Leasehold Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Leasehold Mortgage, or any conveyance of the leasehold estate hereunder from Tenant to any Leasehold Lender or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of City or constitute a breach of any provision of or a default under this Lease, and upon such foreclosure, sale or conveyance City shall recognize the purchaser or other transferee in connection therewith as the Tenant hereunder so long as such purchaser or other transferee shall assume in writing all outstanding obligations of Tenant under this Lease first arising or accruing after the foreclosure sale or transfer of the Lease; provided, however, such purchaser or other transferee shall be entitled to a reasonable cure period for continuous operation of the Project for the Permitted Use, so long as the purchaser or other transferee is making good faith progress in diligently pursuing continued operation of the Permitted Use. The purchaser or other transferee shall acknowledge in writing that the Premises remain subject to the City Easement Agreement, if so requested by City.

16.11 **No Cancellation**. Unless and until City has received notice from all Leasehold Lenders that the Leasehold Lenders elect not to demand a new lease as provided in Section 16.9, or until the ninety (90) day period therefore has expired, City shall not cancel or agree to the termination or surrender of any existing subleases, and any new subleases entered into during such period must be in compliance with the requirements of the Regulatory Agreement, but at rents not less than the rents charged for new leases immediately prior to the termination of the Lease.

16.12 **Insurance Proceeds**. The proceeds from any insurance policies available to Tenant or arising from a condemnation if such condemnation proceeds would be payable to Tenant shall be paid to and held by the Senior Lender and distributed pursuant to the provisions of Article 12 and Article 13 of this Lease.

16.13 **Notices of Proceedings**. Tenant shall give all Leasehold Lenders and City notice of any arbitration, litigation, or condemnation proceedings, or of any pending adjustment of insurance claims as each may relate to the Premises, and any Leasehold Lender shall have the right to intervene therein and shall be made a party to such proceedings. If any Leasehold Lender shall not elect to intervene or become a party to the proceedings, Tenant shall provide such Leasehold Lender with notice of such proceeding and a copy of any award or decision made in connection with such proceeding.

16.14 **Liens of Fee Interest**. City represents and warrants that City has not executed any monetary lien on the fee interest in the Premises. Prior to mortgaging its fee estate, City shall: (1) provide Leasehold Lenders with sixty (60) days prior written notice of such mortgage, and (2) expressly subordinate such mortgage to (a) the interests of Tenant and any Leasehold Lender, (b) any permitted subleases, and (c) any new lease given to Leasehold Lender (or its successor) after termination of the Lease.

16.15 **Termination Under Bankruptcy.** In the event of bankruptcy for either City or Tenant, neither party shall take the benefit of any provisions in the United States Bankruptcy Code that would cause the termination of this Lease or otherwise render this Lease unenforceable in accordance with its terms, without the prior written consent of all Leasehold Lenders. In this regard, in the event of the filing of a petition in bankruptcy by Tenant, and Tenant rejects this Lease under the then applicable provisions of the United States Bankruptcy Code, City shall, upon the request of a Leasehold Lender, affirm this Ground Lease, and City will enter into a new lease on the same terms and conditions as set forth in Section 16.9. In this regard, in the event of the filing of a petition in bankruptcy by or against Tenant, and Tenant rejects this Lease under the then applicable provisions of the bankruptcy code, City shall, upon the request of a Leasehold Lender, affirm this Lease, and City will enter into a new lease on the same terms and conditions set forth herein with such holder or its designee immediately upon Tenant's rejection of this Ground Lease, for the remainder of the Term of this Lease. In the event of the filing of a petition in bankruptcy by City, and City rejects this Lease and Tenant does not affirm it, a Leasehold Lender will have the authority to affirm this Lease on behalf of Tenant and to keep this Lease in full force and effect.

16.16 **Rights of Investor.** _____ (the "Investor") shall have the same notice and cure rights (but not rights to a new lease) as any Leasehold Lender for so long as it is a limited partner of Tenant and without regard to the existence of any Leasehold Mortgage. The address for any notices to same, as of the date hereof, is provided in Section 17.3 below.

ARTICLE 17 GENERAL PROVISIONS

17.1 **Governing Law, Exclusive Jurisdiction.** This Lease, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Lease or the transaction(s) contemplated by it, shall be governed by, construed and enforced in accordance with the law of the State of California (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Lease shall be brought in Orange County, California.

17.2 **City Regulatory Authority.** Tenant acknowledges and agrees that City, acting not as landlord but in its governmental regulatory capacity, has certain governmental regulatory authority over the Premises and that nothing in this Lease binds City to exercise or refrain from exercising this discretionary governmental authority in any particular manner..

17.3 **Estoppel Certificates.**

17.3.1 **Tenant Estoppel Certificate.** At any time and from time to time, within thirty (30) days after receipt of a written request by City, Tenant shall deliver to City a statement in writing certifying (i) that this Lease is unmodified and in full force and effect (or if there shall have been modifications that the same is in full force and effect as modified and stating the modifications); (ii) the Term Commencement Date; (iii) the dates to which the Rent and any other deposits or charges have been paid; (iv) stating whether or not, to the current actual knowledge of Tenant, City is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which Tenant may have knowledge; and (v) such other information as may be reasonably requested by the Leasehold Lender. The estoppel

certificate may be relied upon by the receiving party, and any prospective lender, lessee, transferee, or any assignee of any Leasehold Lender.

17.3.2 City Estoppel Certificate. At any time and from time to time, within thirty (30) days after receipt of a written request by Tenant, Investor, or any Leasehold Lender, City shall deliver to Tenant, Investor or such Leasehold Lender, if applicable, a statement in writing certifying (i) that this Lease is unmodified and in full force and effect (or if there shall have been modifications that the same is in full force and effect as modified and stating the modifications); (ii) the Term Commencement Date; (iii) the dates to which the Rent and any other deposits or charges have been paid, (iv) stating whether or not, to the current actual knowledge of City, Tenant is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which City may have knowledge, and (v) such other information as may be reasonably requested by Tenant, Investor, or such Leasehold Lender (as applicable). The estoppel certificate may be relied upon by the receiving party, and any prospective lender, lessee, transferee, or any assignee of any Leasehold Lender.

17.4 **Notices**. All notices, demands, or other communications with respect to this Lease shall be in writing and shall be (a) delivered in person, in which event the notice shall be deemed received when delivery is actually received by the recipient, (b) sent by reputable overnight courier which provides a receipt with the time and date of delivery for next business day delivery, in which event the notice shall be deemed received when delivery is actually received by the recipient; or (c) sent by registered mail or certified mail, postage prepaid, return receipt requested, through the United States Postal Service, in which event the notice shall be deemed received when the delivery is actually received by the recipient. Notwithstanding the foregoing, the recipient's rejection or other refusal to accept delivery, or the inability to deliver because of a changed address of which proper notice was not given, shall be deemed to be receipt of the notice, demand or other communication. Each party may change its address by written notice in accordance with this Section. All such notices shall be sent to the following addresses:

If to City:

City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92626
Attention: City Manager

with a copy to:

Jones Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835
Attn: Kimberly Hall Barlow

If to **Tenant**:

LP
c/o Jamboree Housing Corporation
17701 Cowan Avenue, Suite 200

Irvine, CA 92614
Attention: Michael Massie

with a copy to:

Rutan & Tucker, LLP
18575 Jamboree Road 9th Floor
Irvine, CA 92612
Attention: Patrick D. McCalla

and a copy to:

and a copy to:

Any party may change its address set forth above by notice given in the manner set forth above.

17.5 **Quiet Enjoyment.** City covenants and agrees that Tenant, upon paying the Rent and all other charges under this Lease and observing and keeping all covenants, agreements and conditions of this Lease on its part to be observed and kept at all times during the Term, shall have quiet enjoyment of the Premises during the Term, subject, however, to the exceptions, reservations, conditions of this Lease or other rights of City contained herein, in the City Easement Agreement, or as otherwise allowed by applicable law.

17.6 **Unavoidable Delays.** “Unavoidable Delays” shall mean delays actually caused by force majeure events. Force majeure events shall include, without limitation: war; insurrection; strikes; lockouts; 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; subcontractor or supplier; or any other causes beyond the control or without the default of the party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Lease, an extension of time for delays actually caused by any such event shall be for the period of the Unavoidable Delay and shall commence to run from the time of the commencement of the event, if notice by the party claiming such extension is sent to the other party within thirty (30) days after the commencement of the event.

17.7 **Memorandum of Lease.** A Memorandum of Lease in the form attached hereto as Exhibit B (“**Memorandum of Lease**”) shall be signed by City and Tenant at the same time as this Lease is signed. The Memorandum of Lease shall be recorded in the Official Records of the County of Orange, California, on the Term Commencement Date. Tenant will pay all costs of recording, including any County documentary transfer tax or City conveyance tax. Tenant shall pay the cost of any title insurance it may require.

17.8 **Captions.** The word titles contained herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as any part of this instrument.

17.9 **Successors and Assigns.** Subject to the provisions hereof, this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, and wherever a reference in this Lease is made to either of the parties hereto such reference shall be deemed to include, wherever applicable, also a reference to the successors and assigns of such party, as if in every case so expressed.

17.10 **Indemnity Includes Defense Costs.** In any case where one party is obligated under an express provision of this Lease to indemnify and to save the other party harmless from any damage or liability, the indemnity obligation shall be deemed to include defense of the indemnified party, such defense to be through legal counsel selected by or reasonably acceptable to the indemnified party.

17.11 **Business Days.** As used herein, the term “business day” shall mean any day other than a Saturday, Sunday or day on which the City is closed for business. If any of the dates specified in this Lease shall fall on a non-business day, then the date of such action shall be deemed to be extended to the next business day.

17.12 **Disclaimer of Partnership.** The relationship of the parties hereto is that of Lessor and tenant, and it is expressly understood and agreed that City does not as a result of this Lease in any way nor for any purpose become a partner of Tenant or a joint venturer with Tenant in the conduct of Tenant’s business or otherwise. This Lease is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or association as between City and Tenant.

17.13 **Notice and Cooperation in Legal Proceedings.** Tenant shall give prompt notice, in writing, to the City of the commencement of any action, lawsuit or other legal proceeding against City or against Tenant with respect to any aspect or part of the Premises or this Lease. Tenant shall cooperate with City, and shall cause all the Tenant Representatives to cooperate, in connection with the prosecution or defense of any such legal proceedings. For purposes of this Lease, “**Tenant Representatives**” shall mean Tenant’s agents, contractors, subcontractors, representatives, officers, employees, members, partners, shareholders, directors and managers.

17.14 **No Waiver.** No delay or failure to require performance of any provision of this Lease shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing and shall apply to the specific instance expressly stated.

17.15 **Third Party Beneficiaries.** Except as otherwise expressly stated herein, this Lease does not confer any rights or remedies upon any person or entity other than the parties. Except as otherwise expressly stated herein, there are no third-party beneficiaries to this Lease. Each Leasehold Lender is hereby made an express third party beneficiary of the express rights granted hereunder.

17.16 **Counterparts; Electronic Signatures.** This Lease may be executed in any number of counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original. The parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term

“electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the parties.

17.17 **Entire Lease: Governing Language.** This Lease constitutes the entire agreement by and between the parties with respect to the subject matters hereof, and supersedes all prior understandings and agreements relating thereto. .

17.18 **Changes or Amendments to Lease.** No modification or amendment shall be valid unless set forth in writing and signed by City and Tenant and approved by the Leasehold Lenders(except modifications made in accordance with section 2.2 hereof), in writing, on the terms and conditions required pursuant to this Lease. City shall cooperate in including within this Lease by suitable amendment from time to time any provision that may reasonably be requested by any Leasehold Lender or any proposed Leasehold Lender, for the purpose of allowing any such Leasehold Lender or proposed Leasehold Lender, reasonable means to protect or preserve its interest in the Tenant and/or the Premises, as applicable. City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effect any such amendment; provided, however, that any such amendment shall not in any way affect the Lease Term or rent under this Lease nor otherwise in any material respect adversely affect any rights of City under this Lease.

17.19 **Cumulative Remedies.** The rights and remedies of the parties to this Lease, whether pursuant to this Lease or in accordance with law, shall be construed as cumulative, and the exercise of any single right or remedy shall constitute neither a bar to the exercise of nor the waiver of any other available right or remedy.

17.20 **Time of the Essence.** Time is of the essence of this Lease. Failure to comply with any time requirement of this Lease shall constitute a material breach of this Lease.

17.21 **Incorporation of Exhibits.** All exhibits referred to in this Lease and any addenda, appendices, attachments, exhibits, and schedules which may, from time to time, be attached to in any duly executed amendment of this Lease are by such reference incorporated in this Lease and shall be deemed to be part of this Lease.

17.22 **Severability.** Should any part of this Lease be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity of the remainder of this Lease which shall continue in full force and effect, provided that such remainder can, absent the excised portion, be reasonably interpreted to give the effect to the intentions of the parties.

17.23 **Ambiguities.** This Lease was drafted jointly by the parties. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Lease. Should any ambiguities or conflicts between contract terms and conditions contained in this Lease and its exhibits exist, the terms and conditions in this Lease shall control over its exhibits.

17.24 **Other Representations, Warranties and Covenants.** Tenant represents, warrants and covenants that the following is true and correct and shall be true and correct at all times during the Term:

17.24.1 Tenant is in good standing under the laws of the State of California and is authorized to carry on and do business in the State of California as such business is now conducted and to perform its obligations under this Lease.

17.24.2 Tenant has the full right, power and lawful authority to enter into this Lease and its execution and delivery of this Lease by it or on its behalf has been fully authorized by all requisite actions.

17.24.3 Tenant has provided City with true and correct copies of documentation reasonably requested by City designating the parties authorized to execute this Lease on its behalf.

17.24.4 Tenant's execution, delivery and performance of its obligations under this Lease will not violate any applicable laws, regulations, or rules nor to its knowledge, constitute a breach or default under any contract, agreement, or instrument to which it is a party, or any judicial or regulatory decree or order to which it is a party or by which it is bound.

17.24.5 Tenant has not made an assignment for the benefit of creditors, filed a petition in bankruptcy, been adjudicated insolvent or bankrupt, petitioned a court for the appointment of any receiver of or trustee for it or any substantial part of its property, or commenced any proceeding relating it under any reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or later in effect. There has not been commenced nor is there pending against it any proceeding of the nature described in the first sentence of this subsection. No order for relief has been entered with respect to it under the Federal Bankruptcy Code.

17.24.6 All documents, instruments, and other information delivered by Tenant to the City pursuant to this Lease are true, accurate, correct and complete to the actual knowledge of Tenant unless otherwise indicated in writing delivered concurrently with such delivery. City shall be entitled to rely upon the accuracy and completeness of the information, surveys, and reports provided by Tenant or any of Tenant's employees, agents, subcontractors or consultants.

17.24.7 This Lease, when executed by it and delivered, shall constitute its legal, valid and binding obligation. No consent, approval, or authorization of any third person to its execution, delivery, and performance of this Lease is required, other than consents, approvals, and authorizations which have already been unconditionally given.

17.24.8 Upon its receipt of actual knowledge that any fact or condition which would cause any warranty or representation made by it pursuant to this Section is not true in all material respects, promptly give written notice of such fact or conditions to the City.

17.25 **Further Assurances.** Tenant covenants and agrees that it will execute such other and further instruments and documents as are or may become reasonably necessary to effectuate and carry out this Lease.

17.26 **Representation by Counsel.** The parties to this Lease were represented by their respective counsel in the negotiation and execution of this Lease.

17.27 **No Merger.** There shall be no merger of this Lease or any interest in this Lease nor of the leasehold estate created by this Lease, with the fee estate in the Premises, by reason of the fact that this Lease or such interest in the Lease, or such leasehold estate may be directly or indirectly held by or for the account of any person who shall hold the fee estate in the Premises, or any interest in such fee estate, nor shall there be such a merger by reason of the fact that all or any part of the leasehold estate created by this Lease may be conveyed or mortgaged in a leasehold mortgage to a leasehold mortgagee who shall hold the fee estate in the Premises or any interest of the City under this Lease.

ARTICLE 18 REPRESENTATIONS, WARRANTIES AND COVENANTS

18.1 **Representations, Warranties and Covenants of City.** As an inducement to Tenant to enter into and to proceed under this Lease, City warrants, represents and covenants to Tenant as follows, which warranties, representations and covenants are true and correct as of the date of this Lease:

(a) City has the right, power and authority to enter into this Lease and the right, power and authority to comply with the terms, obligations, provisions and conditions contained in this Lease;

(b) City is a California municipal corporation. The execution, performance and delivery of this Lease by City have been fully authorized by all requisite actions on the part of City.

(c) City is not the subject of a bankruptcy proceeding.

(d) There are no known actions, suits, material claims, legal proceedings, or any proceedings affecting the Premises or any portion thereof, at law or in equity before any court of governmental agency, domestic or foreign.

(e) The entry by City into this Lease and the performance of all of the terms, provisions and conditions contained herein will not, or with the giving of notice or the passage of time, or both, would not, violate or cause a breach or default under any other agreements to which City is a party or by which it is bound.

(f) City is the owner of the fee simple title to the Premises free and clear of all recorded and unrecorded monetary liens, encumbrances, easements, leases, covenants, conditions, restrictions, and other exceptions to or defects in title, excepting only the following: (a) current taxes not yet delinquent; and (b) those additional title exceptions listed in the Proforma Owner's Policy of Title Insurance No. _____ issued by First American Title Company ("Title Report"), and such encumbrances approved by Tenant and recorded concurrently with the Memorandum of Lease, including, without limitation, the City Easement Agreement.

(g) As of the Commencement Date, the Premises are not subject to any outstanding lease agreement, contract of sale, right of first refusal or purchase option, in favor of any person or entity, except Tenant. There are no (i) agreements or arrangements pursuant to which goods, services, water, equipment, labor, supplies, or any other items are being or will be furnished to the Premises, including without limitation, equipment leases, maintenance agreements, service contracts, warranties, and management contracts, except for utilities arrangements; (ii) agreements whereby any person or entity holds any right, license, or privilege or possess or use the Premises or any portion thereof; and (iii) licensing, franchise, or permits issued or required for the ownership and/or operation of the Premises. No agreements or understanding relating to or affecting the Premises exist, except for this Lease and the agreements shown as exceptions to the Premises' title,

(h) There are no tenants or other persons who have a lawful interest in the Premises, and no person or entity has the right to possess the Premises or portion of it.

(i) City has not received any notice from any governmental agency or authority alleging that the Premises is currently in violation of any law, ordinance, rule, regulation, or requirement applicable to its use and operation. If any such notice or notices are received by City following the Commencement Date, City shall, within ten (10) business days of receipt of such notice, notify Tenant in writing. Further, no violations exist of any statutes, ordinances, regulations, or administrative or judicial orders or holdings, whether or not appearing in public records, with respect to the Premises, and present use of the Premises complies with the existing City zoning laws and ordinances.

(j) City has disclosed to Tenant all information, records, and studies maintained by City for the Premises concerning "Hazardous Materials" (as defined below). City has not received written notice from any governmental authority that the Premises or the use or operation thereof are in violation of any "Hazardous Materials Laws" (as defined below), and to City's knowledge, no such written notice has been issued and, to City's knowledge, no violation of any Hazardous Materials Laws has occurred. To City's knowledge, no part of the Premises has ever been used by any person or entity to refine, produce, use, store, handle, transfer, process, transport or dispose of any Hazardous Materials.

As used in this Lease, the term "**Hazardous Materials**" means any oil or any fraction thereof or petroleum products or "hazardous substance" as defined in Section 101(14) of CERCLA (42 U.S.C. Section 9601(14) or Section 25281(h) or 25316 of the California Health and Safety Code at such time; any "hazardous waste," "infectious waste" or "hazardous material" as defined in Section 25117, 25117.5 or 25501(j) of the California Health and Safety Code at such time; any other waste, substance or material designated or regulated in any way as "toxic" or "hazardous" in the RCRA (42 U.S.C. Section 6901, et seq.), CERCLA Federal Water Pollution Control Act (33 U.S.C. Section 1251, et seq.), Safe Drinking Water Act (42 U.S.C. Section 300(f), et seq.), Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.), Clean Air Act (42 U.S.C. Section 7401, et seq.), California Health and Safety Code (Section 25100, et seq., Section 39000, et seq.), or California Water Code (Section 13000, et seq.) at such time; and any additional wastes, substances or material which at such time are classified, considered or regulated as hazardous or toxic under any other present or future environmental or other similar laws relating to the Premises, but excluding any substances or materials used in the construction, development, maintenance or

operation of the Improvements, so long as the same are used in accordance with all applicable laws.

As used in this Lease, the term “**Hazardous Materials Laws**” means all federal, state, and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials in, on or under the Premises or any portion thereof.

18.2 **Representations, Warranties and Covenants of Tenant.** As an inducement to City to enter into and to proceed under this Lease, Tenant warrants and represents to City as follows, which warranties, representations and covenants are true and correct as of the date of this Lease:

(a) Tenant has the right, power and authority to enter into this Lease and the right, power and authority to comply with the terms, obligations, provisions and conditions contained in this Lease;

(b) Tenant is a California limited partnership. The execution, performance and delivery of this Lease by Tenant have been fully authorized by all requisite actions on the part of the Tenant.

(c) Tenant is not the subject of a bankruptcy proceeding.

(d) The entry by Tenant into this Lease and the performance of all of the terms, provisions and conditions contained herein will not, or with the giving of notice or the passage of time, or both, would not, violate or cause a breach or default under any other agreements to which Tenant is a party or by which it is bound.

18.3 **Hazardous Materials.**

18.3.1 **Certain Covenants and Agreements.** Tenant hereby covenants and agrees that:

(a) Tenant shall not knowingly permit the Premises or any portion thereof to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials or otherwise knowingly permit the presence of Hazardous Materials in, on or under the Premises in violation of any applicable law;

(b) Tenant shall keep and maintain the Premises and each portion thereof in compliance with, and shall not cause or permit the Premises or any portion thereof to be in violation of, any Hazardous Materials Laws;

(c) Upon receiving actual knowledge of the same Tenant shall immediately advise City in writing of:

(i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Tenant or the Premises pursuant to any applicable Hazardous Materials Laws;

(ii) any and all claims made or threatened by any third party against Tenant or the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in the foregoing clause (i) and this clause (ii) are hereinafter referred to as “**Hazardous Materials Claims**”); or

(iii) the presence of any Hazardous Materials in, on or under the Premises in such quantities which require reporting to a government agency.

If City reasonably determines that Tenant is not adequately responding to a Hazardous Material Claim or any condition in Section 18.3.1(c)(iii), 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 such Hazardous Materials Claims and to have its reasonable attorney’s fees in connection therewith paid by Tenant.

(d) Without City’s prior written consent, which shall not be unreasonably withheld or delayed, Tenant shall not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the Premises (other than in emergency situations or as required by governmental agencies having jurisdiction), nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Materials Claims.

(e) Tenant has conducted its own inspections, including a Phase I Environmental Assessment and Phase II Environmental Assessment (if necessary), to familiarize itself with the condition of the Premises, including the presence of any Hazardous Materials, and has, subject to the representations and warranties made by City under this Lease and/or under the AH/DDA, unconditionally accepted the condition of the Premises based on its own due diligence.

18.3.2 Tenant Indemnity. Without limiting the generality of the indemnification set forth in Section 9.1 above, Tenant hereby agrees to indemnify, protect, hold harmless and defend (by counsel selected by or otherwise approved by City) the Indemnitees 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, attorney’s fees and expenses), arising directly or indirectly, in whole or in part, out of:

(a) the failure of Tenant on or after the Commencement Date 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 into, on, under or from the Premises; or

(b) any release or discharge of any Hazardous Materials into, on, under or from the Premises, first arising on or after the Commencement Date, or the presence in, on, or under the Premises of any Hazardous Materials that first occurs on the Premises after the Commencement Date.

(c) The provisions of this subsection shall survive expiration of the Term or other termination of this Lease, and shall remain in full force and effect. This indemnity obligation shall not extend to any claim to the extent arising from any Indemnitee’s gross negligence or willful misconduct. Notwithstanding anything herein to the contrary Tenant’s liability under this

Section 18.3 shall not extend to cover the violation of any Hazardous Materials Laws that first arise, commence or occur after the actual dispossession from the entire Premises of Tenant and all entities which control, are controlled by, or are under common control with Jamboree, except to the extent that such release of Hazardous Materials or toxic substances, or materials and/or waste therefrom were exacerbated or caused by Tenant during its occupancy of the Premises.

18.3.3 No Limitation. Tenant hereby acknowledges and agrees that Tenant's duties, obligations and liabilities under this Lease, including, without limitation, under subsection 18.3.2 above, are in no way limited or otherwise affected by any information City may have concerning the Premises and/or the presence on the Premises of any Hazardous Materials, whether City obtained such information from Tenant or from its own investigations.

18.3.4 City Indemnity. City hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to Tenant) Tenant, its officers, board members, directors, agents, successors, assigns and employees (the "**Tenant Indemnitees**") 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, attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of:

(a) the failure of City prior to the Commencement Date 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 into, on, under or from the Premises; or

(b) any release or discharge of any Hazardous Materials into, on, under or from the Premises, first arising prior to the Commencement Date, or the presence in, on, or under the Premises of any Hazardous Materials that first occurred on the Premises prior to the Commencement Date.

The provisions of this subsection shall survive expiration of the Term or other termination of this Lease, and shall remain in full force and effect. This indemnity obligation shall not extend to any claim to the extent arising from any Tenant Indemnitee's gross negligence or willful misconduct.

18.4 As-Is Conveyance; Release.

18.4.1 As-Is Conveyance. Except as otherwise provided in this Lease and/or in the AH/DDA, this Lease is made "AS IS," with no warranties or representations by the City concerning the condition of the Premises. City hereby agrees and acknowledges that except in the event of any fraud by City, and except for the representations by City expressly set forth herein and/or in the AH/DDA: (i) neither City, nor anyone acting for or on behalf of City, has made any representation, statement, warranty or promise to Tenant concerning the development potential or condition of the Premises; (ii) in entering into this Lease, Tenant has not relied on any representation, statement or warranty of City, or anyone acting for or on behalf of City; (iii) all matters concerning the Premises have been or shall be independently verified by Tenant and Tenant shall lease the Premises on Tenant's own prior examination thereof; and (iv) Tenant is

leasing the Premises in an “as is” physical condition and in an “as is” state of repair. If the condition of the Premises is not in all respects entirely suitable for the use or uses to which such Premises will be put, then except in the event of any fraud by City, and except for the representations by City expressly set forth herein, it is the sole responsibility and obligation of Tenant to place the Premises in all respects in a condition suitable for Tenant’s development project, solely at Tenant’s expense.

18.4.2 General Release. Except for City’s fraud or the breach by City of a representation, warranty, or covenant in this Lease and/or in the AH/DDA, Tenant and its owners, employees, agents, assigns and successors agree that as of the Commencement Date, Tenant shall be deemed conclusively to have released and discharged City and its agents, employees, trustees, assigns and successors, from any and all damages, losses, demands, claims, debts, liabilities, obligations, causes of action and rights, whether known or unknown, by Tenant regarding the physical condition of the Premises as of the Commencement Date, including, but not limited to, the environmental condition of the Premises.

18.4.3 Waiver of Civil Code Section 1542. Tenant agrees that, with respect to the General Release contained in Section 18.4.2 above, the General Release extends to all matters regarding the Premises, whether or not claimed or suspected, to and including the date of execution hereof, and constitutes a waiver of each and all the provisions of the California Civil Code section 1542, which reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS 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.”

Tenant herein acknowledges that the effect and import of the provisions of Civil Code section 1542 have been explained to it by its own counsel. Tenant understands and acknowledges the significance and the consequence of such specific waiver of unknown claims and hereby assumes full responsibility for any injuries, damages, losses or liabilities that it may hereinafter incur from the waiver of these unknown claims.

//SIGNATURES FOLLOW ON NEXT PAGE//

IN WITNESS WHEREOF, City and Tenant have executed this Lease as of the Effective Date.

CITY:

The City of Costa Mesa,
a California municipal corporation

By: _____
Lori Ann Farrell Harrison, City Manager

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:
JONES MAYER

Counsel to the City of Costa Mesa

TENANT:

_____ LP,
a California limited partnership,

By: _____ LLC,
a California limited liability company,
Managing General Partner

By: Jamboree Housing Corporation,
a California nonprofit public benefit corporation,
Manager

By: _____
Michael Massie, Executive Vice President
and Chief Development Officer

EXHIBIT A

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

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

_____, LP
c/o Jamboree Housing Corporation
17701 Cowan Avenue, Suite 200
Irvine, CA 92614
Attention: _____

APN: _____ (SPACE ABOVE THIS LINE FOR RECORDER’S USE ONLY)
[To be recorded at no fee pursuant to Government Code §27383]

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease (“**Memorandum**”) is made as of _____, _____ by and between the City of Costa Mesa, a California municipal corporation (“**City**”) and _____, LP, a California limited partnership (“**Tenant**”).

For good and valuable consideration, receipt of which is hereby acknowledged, City hereby leases to Tenant and Tenant hires from City certain real property described on Exhibit A hereto (“**Premises**”); which Premises are subject to an easement agreement recorded concurrently herewith in favor of City for drainage, egress, ingress, access and parking over the surface parking thereon. The terms and conditions of this lease are more particularly set forth in an unrecorded Ground Lease (the “**Lease**”) between City and Tenant dated for reference purposes as of _____ which is hereby incorporated herein by this reference thereto. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease.

1. The term of the Lease (“**Lease Term**”) commences on the Term Commencement Date (which is defined in the Lease as the date this Memorandum is recorded in the public records) and expires on the last day of the month in which the ninety-ninth (99th) anniversary of the Term Commencement Date occurs.

2. The Lease requires that the Premises be used for the Term for affordable housing and related uses, as more particularly set forth in the Lease.

3. This Memorandum has been executed, acknowledged and recorded solely for the purpose of providing constructive notice of the Lease. This Memorandum may be executed in any number of counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original. If any inconsistency or conflict exists between the provisions of this Memorandum and the Lease, the terms, covenants and conditions of the Lease shall control.

[signatures on following pages]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the day and year first written above.

Tenant:

LP, a California limited partnership,

By: _____ LLC, a
California limited liability company,
Managing General Partner

By: Jamboree Housing
Corporation, a California nonprofit public
benefit corporation, Manager

By: _____

Name: Michael Massie, Executive
Vice President and Chief Development
Officer

City:

City of Costa Mesa, a California municipal
corporation

ATTEST:

City Clerk

By: _____

Its: _____

APPROVED AS TO FORM:

JONES MAYER

Counsel to the City of Costa Mesa

[SIGNATURES OF OTHER THAN COUNSEL MUST BE 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, _____,
(insert name and title of the officer)

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.

Signature _____

(Seal)

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, _____,
(insert name and title of the officer)

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.

Signature _____

(Seal)

EXHIBIT A TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION OF PREMISES

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

TABLE OF EXHIBITS

EXHIBIT A Legal Description of Premises

EXHIBIT B Form of Memorandum of Lease