

ITEM 8.A.

MOORPARK CITY COUNCIL AGENDA REPORT

To: Honorable City Council

From: David C. Moe II, Redevelopment Manager *DCM*

Date: August 17, 2009 (Agency Meeting of 9/2/09)

Subject: Consider Resolution Finding the Disposition Development Agreement between the Redevelopment Agency of the City of Moorpark and the Area Housing Authority of the County of Ventura for the Development of the Charles Street Apartment Project Located at 396 Charles Street is Consistent with Health and Safety Code 33430 and 33431 of California Community Redevelopment Law

BACKGROUND & DISCUSSION

In accordance with the Development Agreement dated August 30, 2007, and as amended, Toll Land XX Limited Partnership has acquired the properties at 396, 406 and 436 Charles Street ("Properties"), totaling approximately 36,590 square feet, to satisfy a portion of their affordable housing requirement for Tract 5463, and transferred them, at no cost, on April 10, 2008 to the City of Moorpark ("City"). The City will transfer the Properties to the Redevelopment Agency of the City of Moorpark ("Agency") for development of an affordable housing project (RPD 2009-01).

The Agency has negotiated a Disposition and Development Agreement with the Area Housing Authority ("AHA") to construct 20 units with a podium style building ("Project"). The Project would be 100% affordable and have a mixture of one, two and three bedroom units, ranging in size from 870 -1100 square feet.

The City, AHA and Santa Barbara Housing Assistance Corporation ("Partnership") have entered into a Partnership Agreement dated June 9, 2009, for the purpose of financing and developing the Project. It is the intent of the City and AHA to have the Properties transferred to the Agency so that they may be transferred to the AHA through a Disposition and Development Agreement and ultimately sold or leased to the Partnership for constructing the Project. The Partnership will be dissolved after the Project is complete and AHA will maintain 100% ownership of the property subject to reversion to City in the event the site is not used for affordable housing pursuant to the

approved RPD. If the Partnership does not dissolve, the ownership of the Project would be 99.8% City, .1% AHA and .1% Santa Barbara Housing Assistance Corporation.

Since the property was not purchased with tax increment by the Agency, the normal procedure of the City Council approving the sale and making the three required findings (Section 33433 of California Community Redevelopment Law) does not apply to this transaction. The City Council will only need to conduct a public hearing and approve the attached Resolution determining the proposed project is consistent with Section 33430 and 33431 of California Community Redevelopment Law.

FISCAL IMPACT

The City received the Properties from Toll Land XX Limited Partnership at no cost to the City. The City will transfer title of the Properties to the Agency at no cost to the Agency. The Agency will in turn transfer the title to the AHA at no cost to the AHA. The City does not have any money in the construction or permanent financing for the project.

The project has several layers of financing for the construction phase and permanent financing:

Construction Phase:

Bank of America	\$4,800,000.00
City of Moorpark	\$1,176,500.00*
County of Ventura HOME	\$ 471,679.00
Tax Credits	\$2,125,272.00

Permanent Financing:

Bank of America	\$ 994,000.00 (debt service \$80,563.00 annually)
City of Moorpark	\$1,176,500.00* (Deferred)
County of Ventura HOME	\$ 471,679.00 (Deferred)
AHA Development Fee	\$ 411,174.00 (Deferred)
Tax Credits	\$7,222,610.00 (Equity)

* This value represents the appraised value of the land the City of Moorpark received at no cost from Toll Land XX Limited Partnership mentioned above.

STAFF RECOMMENDATION

Open public hearing, receive comment, close public hearing and adopt attached Resolution No. 2009 - _____ .

Exhibit "A" Resolution

EXHIBIT A

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, FINDING A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK AND THE AREA HOUSING AUTHORITY OF THE COUNTY OF VENTURA FOR THE DEVELOPMENT OF THE CHARLES STREET APARTMENT PROJECT CONSISTENT WITH HEALTH AND SAFETY CODE §§ 33430 and 33431

WHEREAS, on July 5, 1989 by Ordinance No. 110, the City Council of the City of Moorpark (the "City Council" and the "City," respectively) adopted the Redevelopment Plan (the "Plan") for the Moorpark Redevelopment Project Area (the "Project Area"); and

WHEREAS, the Redevelopment Agency of the City of Moorpark (the "Agency") is a duly constituted redevelopment agency under the laws of the State of California, specifically, the California Community Redevelopment Law (Health and Safety Code, Section 33000, *et seq.*; hereinafter, "CCRL"), and the Agency is responsible for the administration and implementation of redevelopment activities within the City; and

WHEREAS, pursuant to CCRL § 33430, an agency may, within the survey area or for purposes of redevelopment, sell, lease, for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed of trust, or otherwise, or otherwise dispose of any real or personal property or any interest in property; and

WHEREAS, pursuant to CCRL § 33431, any lease or sale made pursuant to CCRL § 33430 may be made without public bidding, but only after a public hearing, notice of which shall be given by publication for not less than once a week for two weeks in a newspaper of general circulation published in the county in which the land lies (the "Public Notice"); and

WHEREAS, CCRL § 33334.2 obligates and empowers an agency to increase, improve and preserve the community's supply of low and moderate income housing; and

WHEREAS, in order to increase the supply of affordable housing within the City, the Agency proposes to enter into a Disposition and Development Agreement (the "DDA") with the Area Housing Authority of the County of Ventura (the "Developer") for the development of the Charles Street Apartment Project (the "Apartment Project"); and

WHEREAS, the Apartment Project is a Residential Planned Development (Permit No. 2009-01) consisting of a two-story, twenty-unit apartment building with underground parking on an approximately 0.9-acre site located at 396, 406 and 436 Charles Street

(APNs 512-0-081-020, 030 and 040, respectively; herein, the "Site") within the Project Area, as more particularly described in the DDA and its accompanying agenda report; and

WHEREAS, consistent with the City's environmental review procedures, the Planning Director has reviewed the Apartment Project and has found it to be Categorically Exempt in accordance with § 15332 (Class 32, Infill Projects) of the California Code of Regulations (CEQA Guidelines) and as such no further environmental documentation is required; and

WHEREAS, the City acquired the Site from Toll Land XX Limited Partnership, at no cost to the City, to satisfy an affordable housing requirement for Tract No. 5463; and

WHEREAS, the Agency will acquire the Site from the City, at no cost to the Agency, prior to the time that the Agency is required to sell the Site to the Developer per the DDA; and

WHEREAS, pursuant to the covenants and conditions and development costs authorized by the DDA, the Developer proposes to acquire and the Agency proposes to sell the Site for one-hundred dollars; and

WHEREAS, the covenants appended to the DDA require that upon occupancy, the Apartment Project will include fourteen (14) units that shall be restricted to occupancy by lower income households, as defined in § 50079.5 of the Health and Safety Code, at an affordable cost, as defined in § 50052.5 of the Health and Safety Code, for not less than the period of time required by CCRL § 33334.3(f)(1)(A); and

WHEREAS, the covenants appended to the DDA require that upon occupancy, the Apartment Project will include five (5) units that shall be restricted to occupancy by very-low income households, as defined in § 50105 of the Health and Safety Code, at an affordable cost, as defined in § 50052.5 of the Health and Safety Code, for not less than the period of time required by CCRL § 33334.3(f)(1)(A); and

WHEREAS, the effect of the occupancy and affordability covenants prescribed by the DDA is to reduce the projected net present value of the Site thus requiring the Developer to seek economically viable acquisition terms and alternative financing sources for development; and

WHEREAS, the Developer has proposed a viable plan to finance the Apartment Project through a combination of equity, debt financing and grants, as more particularly described in the DDA and its accompanying agenda report; and

WHEREAS, the Apartment Project is consistent with the Plan and the Agency's Redevelopment Implementation Plan; and

WHEREAS, this Resolution, the DDA and its accompanying agenda report have

been available for public review since the first publication date of the Public Notice; and

WHEREAS, prior to considering the adoption of this Resolution, the City Council conducted a public hearing pursuant to CCRL § 33431.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are a substantive part of this resolution.

SECTION 2. The DDA, by and between the Agency and the Developer, for the development of the Apartment Project is consistent with Health and Safety Code §§ 33430 and 33431.

SECTION 3. The City Clerk shall certify to the adoption of this Resolution, which shall take effect immediately upon its adoption, and shall cause a certified resolution to be filed in the book of original Resolutions.

PASSED AND ADOPTED this 2nd day of September, 2009.

Janice S. Parvin, Mayor

ATTEST:

Deborah S. Traffenstedt,
City Clerk

Attachment "A" Disposition and Development Agreement

Attachment "A"

DRAFT: 08-27-09

OFFICIAL BUSINESS

Document entitled to free
Recording per Government
Code Sections 6103 and 27383

Recording Requested by,
and When Recorded Mail to:
REDEVELOPMENT AGENCY of the
CITY OF MOORPARK
799 Moorpark Avenue
Moorpark, California 93021
Attn: Steven Kueny
Executive Director

SPACE ABOVE THIS LINE
FOR RECORDER'S USE

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between

**REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK,
a public body, corporate and politic,**

and

**AREA HOUSING AUTHORITY OF VENTURA COUNTY
a public body, corporate and politic**

CHARLES STREET APARTMENT PROJECT

A MOORPARK REDEVELOPMENT PROJECT

ATTACHMENT LIST

- Attachment No. 1 -- Site Plan
- Attachment No. 2 -- Legal Description of the Site
- Attachment No. 3 -- Schedule of Performance
- Attachment No. 4 -- Form of Grant Deed
- Attachment No. 5 -- Scope of Development
- Attachment No. 6 -- Certificate of Completion
- Attachment No. 7 -- Affordable Housing Agreement
- Attachment No. 8 -- Median Income

DISPOSITION AND DEVELOPMENT AGREEMENT

CHARLES STREET APARTMENT PROJECT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (“**Agreement**”) is dated as of _____, 2009, and is entered into by and between the REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK, a public body, corporate and politic (“**Agency**”), and the AREA HOUSING AUTHORITY OF THE COUNTY OF VENTURA, (“**AHA**”), a public body corporate and politic and duly organized by the law and existing under the laws of the State of California (“**Developer**”). The Agency and the Developer are hereinafter sometimes individually referred to as a “**Party**” and collectively referred to as the “**Parties**”.

RECITALS

A. Agency is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000, *et seq.*) (the “**Community Redevelopment Law**”).

B. Developer is a public body corporate and politic and duly organized by the law and existing under the Housing Authorities Laws, California Health and Safety Code Sections 34200 *et seq.* (“**Housing Authority Laws**”)

C. The purpose of this Agreement is to effectuate the Community Redevelopment Law by providing for the disposition and development of that certain real property described and defined herein as the “**Site**”. The project to be developed on the Site (“**Project**”) is more particularly described in the “**Scope of Development**” attached hereto as **Attachment No. 5**, and consists generally of the construction of a residential apartment complex containing twenty (20) one, two, and three bedroom units. Following construction, fourteen (14) of the units will be restricted to lease at an “**Affordable Housing Cost**” to “**Low**” or “**Lower Income Households**”, five (5) of the units will be restricted to lease at an “**Affordable Housing Cost**” to “**Very Low Income Households**”, and one (1) unit will be utilized by an onsite manager. The manager unit will be considered a Low Income unit under this Agreement.

D. The City of Moorpark (“**City**”), Developer and Santa Barbara Housing Assistance Corporation (“**Partnership**”) have entered into a Partnership Agreement dated June 9, 2009, for the purpose of financing and developing the Project. It is the intent of the City and Developer to have the Site transferred to the Agency so that it may be transferred to the Developer through a Disposition and Development Agreement and ultimately sold or leased to the Partnership for the construction of the Project. The Partnership will be dissolved after the Project is complete and AHA will maintain 100% ownership of the property subject to reversion to City in the event the site is not used for affordable housing pursuant to the approved Residential Planned Development Permit No. 2009-01.

E. If, for any reason, the Site is not utilized as the Project, at anytime, as fully described in this Agreement, by the Developer, Partnership or any subsequent owner, the Site shall immediately revert to the ownership of the City. This reversion covenant shall be recorded on the grant deed prior to conveyance of the Site from the City to the Agency and surviving this Agreement.

F. On April 1, 2009, the Agency Board approved a Loan Agreement with the AHA to fund up to \$350,000.00 of predevelopment expenses to entitle the project. The loan would not require any payments and would be repaid with the first draw of the construction loan for the project. Interest on the loan would accrue quarterly and the rate would be based on the quarterly Local Agency Investment Fund (LAIF) rate.

G. On July 15, 2009, the City approved Residential Planned Development Permit No. 2009-01 ("RPD"), which included a density bonus for the project to assist in the production of affordable housing.

This Agreement is intended to set forth a comprehensive plan for the disposition and development of the Site, including the processing, financing and construction of the "Improvements" (as defined in Section 1.2 below) to be constructed on the Site.

NOW THEREFORE, the Agency and the Developer hereby agree as follows:

ARTICLE 1. PURPOSE OF AGREEMENT; DEFINITIONS.

1.1 Purpose of Agreement.

1.1.1 This Agreement is entered into by the Agency pursuant to its authority under the Community Redevelopment Law authorizing the acquisition and development of property for the purpose of providing residential units available at an affordable housing cost to low income households. In connection with the foregoing, this Agreement sets forth controls and restrictions, running with the land, as necessary to ensure that the "Units" will be restricted to that use for the period set forth in this Agreement.

The Site is located in the Moorpark Redevelopment Project Area and is subject to the Redevelopment Plan for the Moorpark Redevelopment Project Area adopted by Ordinance No. 110 of the City Council of the City on July 5, 1989, as it may be amended from time to time (the "**Redevelopment Plan**"). The Agency and the City have determined that the sale of the Site to Developer for the construction of the Project on the Site will benefit the Redevelopment Project Area and is in accord with the purposes and provisions of the Community Redevelopment Law. This Agreement is entered into for the purpose of facilitating the expeditious development of the Site for redevelopment purposes and is intentionally structured to deter speculation in land holding.

1.1.2 The development of the Site pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the "**City**" (as defined in Section 1.2 below), and will promote the health, safety, and welfare of its

residents. This Agreement is in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements.

1.2 Definitions.

In addition to other terms defined elsewhere in this Agreement, the following terms as used in this Agreement shall have the meanings given below unless expressly provided to the contrary:

"Affiliate" shall mean any **"Person"** (as defined below) directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with another Person. The term **"control"**, as used in the immediately preceding sentence, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person. Without limiting the generality of the foregoing, limited partnerships or other legal entities created for the purpose of taking title or an ownership interest in the Site, as part of tax credit or other financing, shall be "Affiliates" hereunder (sometimes referred to as "Financing Affiliate").

"Affordable Rent" shall mean rent plus a reasonable utility allowance as defined in California Health and Safety Code Section 33334.2 and 50052.5, which currently is:

A. For a Very Low Income Tenant, thirty percent (30%) times fifty (50%) percent of the County Median Income adjusted for family size appropriate for the Unit; and

B. For a Low Income Tenant, thirty percent (30%) times sixty (60%) of the County Median Income adjusted for family size appropriate for the unit.

For the purposes of calculating the Affordable Rent, the term "adjusted for family size appropriate to the Unit" shall mean a household of 2 persons in the case of a one bedroom unit, 3 persons in the case of a two bedroom unit, 4 persons in the case of a three bedroom unit. In the event that requirements or practices of the California Tax Credit Allocation Committee, or other entity or entities similarly associated with anticipated financing of the construction of this project, or future prudent refinancing of this project, utilizes definitions, sources of information, or statutes other than those which have been referenced herein and utilized in calculating Affordable Rent, then the definition, source of information or statute which produces the lowest affordable rent will prevail.

"Agency/City" as used herein shall mean and denote both Agency and City.

"City" shall mean the City of Moorpark, a municipal corporation, organized and existing under the laws of the State of California, and having its office at 799 Moorpark Avenue, City of Moorpark, California 93021, and all successors and assigns of the City of Moorpark.

“Closing Date” shall mean the date that is ten (10) days after the date the Conditions Precedent set forth in Sections 5.2.1 and 5.2.2 (other than the conditions on the delivery of documents and funds into Escrow, which shall occur during said 10 day period) are satisfied or waived by the benefited party, but in no event later than December 30, 2009, as such date may be extended pursuant to Sections 9.15 or 9.18 below.

“Effective Date” shall mean the date that this Agreement is fully executed, which date shall be inserted into the preamble of this Agreement.

“Encumbrance” as used herein shall mean and include any mortgage, trust deed, encumbrance, financing conveyance and all other appropriate modes of financing real estate construction and development, including a sale and lease-back.

“Environmental Laws” means any federal, state or local law, statute, ordinance, or regulation pertaining to environmental regulation, contamination or cleanup of any Hazardous Materials, including, without limitation, (i) Sections 25115, 25117, 25122.7 or 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) Article 9 or Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (vi) Section 311 of the Clean Water Act (33 U.S.C. §1317), (vii) Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901) (42 U.S.C. §6903), (viii) Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq.

“Governmental Restrictions” as used herein shall mean and include any and all laws, statutes, ordinances, codes, rules, regulations or other authorizations, restrictions or requirements of any governmental entity, agency or political subdivision. The term **“Applicable Governmental Restrictions”** shall mean and include all Governmental Restrictions applicable to the Site which are then in effect.

“Hazardous Materials” means any substance, material, or waste which is regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a “hazardous substance” under Section 25281 of the

California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. (42 U.S.C. §6903) or (xi) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq.

"Improvements" shall mean and include all buildings, structures, fixtures, foundations, excavation, parking, landscaping, underground installations, and other work, construction, alterations and improvements of whatsoever character required to be undertaken or constructed on, off, under, or upon the Site by Developer pursuant to this Agreement. The Improvements shall include the grading of the Site and the development of a twenty unit residential project on the Site, including parking, landscaping, lighting, signage, and other amenities.

"Income Restrictions" Shall mean the following:

A. Low Income Tenants or Lower Income Tenants shall mean and be deemed to include any tenant whose annual household income does not exceed the income limit for low or lower income tenants for Ventura County, adjusted for applicable household size, as computed in accordance with the Community Redevelopment Law.

B. Very Low Income Tenants shall mean and be deemed to include any tenant whose annual household income does not exceed the income limit for very low income tenants for Ventura County, adjusted for applicable household size, as computed in accordance with the Community Redevelopment Law.

"Life of Project" Shall mean the time the Site is used for the Project in accordance with this Agreement and City approved RPD. If the Project no longer complies with this Agreement and City approved RPD, the reversion provision in Section 9.20 will revert the Site back to the City.

"Median Income" shall mean the Ventura County area median income, adjusted for family size, as established by the California Department of Housing and Community Development. The applicable income limits are set forth in **Attachment No. 8**.

"Person" shall mean an individual, corporation, limited liability company, partnership, joint venture, association, firm, joint stock company, trust, unincorporated association or other entity.

"Qualified Renter" shall mean, with respect to the Units, tenants who satisfy the following requirements:

Developer has determined the person(s)' adjusted gross income, as shown either on federal income tax returns for the full calendar year immediately preceding the calendar year in which the prospective person(s) seeks to rent a Unit or as shown by the payroll records or checks establishing their then current income, including reasonably anticipated income, or as otherwise established to the Developer's reasonable satisfaction, does not exceed the income restriction level applicable to the Unit at issue.

"Representatives" as used herein shall mean the agents, employees, members, independent contractors, affiliates, principals, shareholders, commissioners, officers, directors, council members, board members, committee members, and planning and other commissioners of the referenced entity.

"Unit" shall mean and refer to an individual restricted residential apartment unit constructed on the Site pursuant to this Agreement. **"Units"** shall mean and refer collectively to all such residential dwelling units constructed on the Site.

"Site" shall mean that certain real property to be developed by Developer pursuant to this Agreement, which property is shown on the Site Plan attached hereto as **Attachment No. 1** and more particularly described in the **"Legal Description"** attached hereto as **Attachment No. 2**.

"Schedule of Performance" means the Schedule of Performance attached hereto as Attachment No. 3 and incorporated herein, setting out the dates and/or time periods by which certain obligations set forth in this Agreement must be accomplished. The Schedule of Performance is: (a) subject to revision from time to time as mutually agreed upon in writing between the Developer and the Agency's Executive Director, and the Agency's Executive Director is authorized to make such revisions as he or she deems reasonably necessary; and (b) subject to the provisions of Section 9.15.

"Scope of Development" means the Scope of Development attached hereto as Attachment No. 5.

"Transfer" as used herein shall mean and include any conveyance, transfer, sale, assignment, lease, sublease, hypothecation, mortgage, pledge, encumbrance, or the like. **"Transferee"** shall mean and refer to the person or entity receiving any Transfer.

ARTICLE 2. PARTIES TO THE AGREEMENT.

2.1 Agency.

Agency shall mean the Redevelopment Agency of the City of Moorpark, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under Chapter 2 of the Community Redevelopment Law and having its office at 799 Moorpark Avenue, City of Moorpark, California 93021, and all assignees of or successors in interest to the Agency's general rights, powers and responsibilities by operation of law or as otherwise authorized by this Agreement.

2.2 Developer.

Developer shall mean the Area Housing Authority of the County of Ventura and its successors and assigns as permitted by this Agreement. Developer has its principal place of business located at 1400 W. Hillcrest Drive, Newbury Park, California.

2.3 Restrictions on Transfer.

2.3.1 Restrictions on Transfer of the Agreement, the Site, and the Improvements Constructed Thereon.

The restrictions contained in this Section 2.3 upon any Transfer to any Transferee are imposed because the qualifications and identity of Developer are of particular concern to the Agency, and it is because of those qualifications and identity that the Agency has entered into this Agreement with Developer. Except as permitted herein, Developer shall not Transfer all or any part of its interest in or rights under this Agreement, and/or any part of its interest in or rights to the Site and/or any of the Improvements constructed thereon, without the prior written approval of Agency. Agency's approval shall be granted or withheld in Agency's discretion, but shall not be unreasonably withheld, delayed or conditioned. Following a Transfer pursuant to this Agreement with Agency consent and the written assumption by the Transferee of the obligations Transferred, the Transferor shall be released from any further liability thereafter arising with respect to the obligations Transferred.

At any time Developer desires to effect a Transfer requiring the consent of Agency under this Agreement, Developer shall, except as expressly provided below in this Section 2.3, request consent from the Agency in writing and shall submit to Agency any proposed agreement evidencing the proposed Transfer (collectively, the "**Transfer Documents**"). Agency agrees to notify Developer in writing of its decision with respect to Developer's request for consent to such Transfer, as promptly as possible, and, in any event, not later than thirty (30) days after Agency receives the Developer's written request for consent to the transfer and the Transfer Documents; provided, that, if Agency requires additional time, it may extend the approval or disapproval of such Transfer for up to an additional thirty (30) days by providing written notice to Developer of such required extension within the initial thirty (30) day period. If such request is denied, Agency shall state the reasons for such disapproval in its notice of denial of Developer's request.

2.3.2 Permitted Transfer Without Developer Approval

The Agency may transfer the its interest in this Agreement at anytime and for any reason to the City of Moorpark without consent of the Developer.

ARTICLE 3. DEPOSIT AND PURCHASE PRICE PAYMENT.

3.1 Developer's Deposit.

3.1.1 Amount of Deposit

Prior to or concurrent with the execution of this Agreement by Agency, Developer shall deliver to Escrow Agent a cash deposit in the amount of Five Thousand Dollars (\$5,000) ("**Developer's Deposit**"). The Developer's Deposit shall be held and applied in accordance with the terms hereinafter set forth.

3.1.2 Disposition of Developer's Deposit

3.1.2.1 Concurrently with the Close of Escrow (as defined in Section 5.3.2 below) the Developer's Deposit shall be returned to Developer. Upon a termination of this Agreement by the Agency as a result of the Developer's Uncured Default hereunder, the Developer's Deposit, and all interest accrued thereon, if any, shall be retained by the Agency as provided in Section 8.5.2 below. Upon the termination of this Agreement because of Agency's Uncured Default or the failure of a condition to closing, or for any other reason (other than Developer's Uncured Default), the Developer shall be entitled to the prompt return of the Developer's Deposit, together with the interest, if any, that may have accrued thereon. The Escrow Agent shall deposit the Developer's Deposit in an interest-bearing account, and as interest accrues or becomes payable thereon, such interest shall be added to and become part of the Developer's Deposit.

3.1.3 Deposit for Affordable Housing Agreement Preparation

Prior to or concurrent with the execution of this Agreement by Agency, Developer shall deposit with the Agency \$5,000 to pay Agency's direct costs for preparation and review of an Affordable Housing Agreement and Affordable Housing Implementation and Rental Restriction Plan. Agency's cost to prepare said documents shall not exceed \$5,000.

3.2 Purchase Price

The purchase price which Agency agrees to accept and Developer agrees to pay for the Site is the sum of One Hundred Dollars (\$100) ("**Purchase Price**")

ARTICLE 4. STATUS OF THE SITE.

Agency is the owner of record of all of the parcels comprising the Site. The Site will be conveyed to the Developer in a vacant and unimproved condition "As Is". Agency makes no representation about existence of any surface and subsurface improvements, installations and alterations, including, without limitation, any footings, foundations, underground tanks, truck docks, lines, sewer, gas or water lines, utilities and pipes (the condition of the Site described above is referred to herein as the "**As Is Condition**")

ARTICLE 5. DISPOSITION OF THE SITE.

5.1 Disposition of Site.

Subject to the terms and conditions set forth herein, no later than the Closing Date, the Agency agrees to transfer the Site to the Developer in As Is Condition and the Developer agrees to accept the Site from the Agency for development in accordance with the terms of this Agreement (the "**Conveyance**"). The Site shall be transferred to Developer in anticipation and in consideration of Developer's subsequent development of the Site in accordance with all of the terms and provisions of this Agreement.

5.1.1 Timeline to Secure Financing

Developer shall have two (2) Tax Credit Allocation Committee funding rounds to secure tax credit financing for the Project. If tax credits have not been secured within two (2) funding rounds, the Agency may, at its sole discretion, terminate this Agreement.

5.2 Conditions to Conveyance of Site.

5.2.1 Agency's Conditions to Conveyance of Site.

In addition to any other requirements and conditions imposed by this Agreement, the Parties acknowledge and agree that, as a condition precedent to the Agency's obligation to convey the Site to Developer, the following general conditions (collectively, the "**Conditions Precedent**") must be satisfied (or waived by the Agency in writing):

- (i) no Uncured Default (as defined in Section 8.2 below) of Developer shall then exist;
- (ii) the evidence of financing required by Section 6.2.3.1 shall have been submitted to and approved by the Agency;
- (iii) the Construction Contract shall have been submitted to and approved by Agency as provided in Section 6.2.3.2 below, or so long as Developer or the applicable Affiliate secures all necessary licenses, such requirement shall be satisfied by Developer's election to act as its own general contractor, either directly or through an Affiliate, with respect to this Project;
- (iv) this Agreement shall not have been terminated and shall be in full force and effect;
- (v) the Lot Combination (as defined in Section 6.2.4 below), shall have been duly approved in accordance with all Applicable Governmental Restrictions;

- (vi) the Developer shall have obtained all entitlements and land use approvals necessary to develop the Site in the manner contemplated by this Agreement (which shall be final and not subject to further appeal), Developer shall have submitted to the City all building plans for the development necessary to the issuance of building permits which shall have been accepted by the City as complete and approved by the City, and grading permits shall be ready to be issued concurrent with the Closing upon payment of all requisite fees;
- (vii) no litigation, administrative or adjudicative proceeding, including, without limitation, an application for writ of mandate, shall have been filed which seeks to challenge or enjoin the Project or the transactions contemplated by this Agreement, or to obtain damages in connection therewith, or, if timely filed, such action shall have been finally concluded or terminated in a manner reasonably satisfactory to Agency;
- (viii) the “**Construction Loan**” (as defined in Section 6.2.3.1 below) to be secured by Developer in connection with the development of the Site, including bonds, permanent loan commitments, tax credits, HOME funds, grants and other means of constructions and credit facilities described in Section 6.2.3.1 below, shall be in a position to record immediately following the Close of Escrow; and the Developer shall have provided proof of insurance in accordance with the requirements of Section 6.5 of this Agreement.

5.2.2 Developer’s Conditions to Acceptance.

In addition to any other requirements and conditions imposed by this Agreement, the Parties acknowledge and agree that, as a condition precedent to the Closing, and to Developer’s obligation to accept conveyance of the Site from Agency, the following general conditions (collectively, the “**Conditions Precedent**”) must be satisfied (or waived by the Developer in writing):

- (i) no Uncured Default (as defined in Section 8.2 below) of Agency shall then exist;
- (ii) Developer shall have obtained financing for the project, which may be in the form of construction loan, permanent loan commitments, bonds, tax credits, HOME funds, grants and other means of constructions and credit facilities described in Section 6.2.3.1 below, and Developer’s evidence of financing and the Construction Contract shall

have been approved by the Agency as required by Sections 6.2.3.1 and 6.2.3.2 below;

- (iii) this Agreement shall not have been terminated and shall be in full force and effect;
- (iv) the Lot Combination shall have been duly approved in accordance with all Applicable Governmental Restrictions;
- (v) the Developer shall have obtained all entitlements and land use approvals necessary to develop the Site in the manner contemplated by this Agreement (which shall be final and not subject to further appeal), the City shall have accepted as complete all building plans for the development necessary to the issuance of building permits, and grading permits shall be ready to be issued by the City concurrent with the Closing upon payment of all requisite fees;
- (vi) no litigation, administrative or adjudicative proceeding, including, without limitation, an application for writ of mandate, shall have been filed which seeks to challenge or enjoin the Project or the transactions contemplated by this Agreement, or to obtain damages in connection therewith, or, if timely filed, such action shall have been finally concluded or terminated in a manner reasonably satisfactory to Developer;
- (vii) the Agency shall have completed the transfer of ownership of the property from the City of Moorpark to the Agency;
- (viii) the Agency shall have executed the Grant Deed and any other documents required hereunder, and delivered such documents into Escrow;
- (ix) this Agreement shall not have terminated pursuant to Section 5.3.3 hereof and Developer shall have approved its due diligence review of the Site pursuant to Section 5.5, including, without limitation, approval of its environmental review of the Site and all studies, reports and assessments concerning the environmental condition of the Site;
- (x) the Title Company shall, upon payment of Title Company's regularly scheduled premium, have agreed to provide to the Developer the Title Policy for the Site upon the Close of Escrow, in accordance with Section 5.3.3 hereof;
- (xi) the Developer's Construction Loan shall be ready and in a condition to close and fund concurrently with the Close of

Escrow, and Developer shall have obtained a commitment for permanent financing on terms satisfactory to it; and

- (xii) the Site shall be delivered to Developer in As Is Condition as provided in Article 4 above, and any remediation work required under Section 5.7(a) or (b) below with respect to Hazardous Materials discovered prior to the Close of Escrow shall have been completed and a "No Further Action" letter or other closing letter reasonably satisfactory to Developer shall have been issued by the environmental agency with jurisdiction over the subject assessment and cleanup.

5.3 Escrow.

5.3.1 General Provisions.

5.3.1.1 Within ten (10) business days after the Effective Date, Agency agrees to open an escrow (the "**Escrow**") for the Conveyance with First American Title Insurance Company ("**Title Company**"), or with another escrow company or escrow department of a title insurance company selected by the Developer and reasonably acceptable to Agency (the "**Escrow Agent**"). This Agreement shall constitute the joint escrow instructions of Agency and Developer with respect to the Conveyance of the Site.

5.3.1.2 Agency and Developer shall provide such additional escrow instructions as shall be necessary and consistent with this Agreement. The Escrow Agent hereby is empowered to act under this Agreement and, upon indicating its acceptance of the provisions of this Section 5.3 in writing, shall carry out its duties as Escrow Agent hereunder.

5.3.1.3 Upon delivery to the Escrow Agent by Agency and Developer of the "**Grant Deed**" (which is attached hereto as **Attachment No. 4** and incorporated herein) and satisfaction (or waiver) of the other conditions to the Close of Escrow, the Escrow Agent shall record the Grant Deed and proceed with the Closing. In connection with the Conveyance, the Escrow Agent shall pay the transfer tax, if any, required by law. Any insurance policies of Agency governing the Site are not to be transferred.

5.3.1.4 Promptly after Escrow Agent's notification to Agency and Developer of the amount of such fees, charges and costs, and, in any event, not less than one (1) business day prior to the scheduled date for delivery of the Conveyance, Agency and Developer shall each pay into escrow and ultimately be liable for one half of the escrow fees, charges and costs. The Agency shall pay state, county, city or other documentary transfer taxes, if any, applicable to the Conveyance. The Agency shall be responsible for the premium of the title policy described in Section 5.3.3 attributable to CLTA standard owners coverage. Promptly after Escrow Agent's notification to Developer of the amount of such fees, charges and costs, and, in any event, not less than one (1) business day prior to the scheduled date for delivery of the Conveyance,

Developer shall pay into escrow the difference in premium between a CLTA standard owner's policy and an ALTA extended owner's policy, and any endorsements to the title policy requested by Developer.

5.3.1.5 The Escrow Agent is authorized to: (i) pay, and charge Agency and Developer for, any fees, charges and costs payable under this Section of this Agreement; (ii) disburse funds and deliver the Grant Deed and other documents to the Parties entitled thereto when the conditions of the Escrow have been fulfilled by Agency and Developer; and (iii) record any instruments delivered through the escrow if necessary or proper to vest title in the Developer in accordance with the terms and provisions of this Agreement.

5.3.1.6 Subject to satisfaction (or waiver) of all Conditions Precedent, the Escrow shall Close (as defined in Section 5.3.2 below) no later than the Closing Date. If Escrow is not in condition to Close by the Closing Date, then any party, not then in default of its obligations hereunder, shall have the right to demand the return of money or property and terminate this Agreement. If either party makes a written demand for return of documents or property, this Agreement shall not terminate until five (5) days after Escrow Agent shall have delivered copies of such demand to all other parties at the respective addresses shown in this Agreement. If any objections are raised within said five (5) day period, Escrow Agent is authorized to hold all papers and documents until instructed by a court of competent jurisdiction or by mutual written instructions of the parties. Developer, however, shall have the sole option to withdraw any money deposited by it for the acquisition of the Site less Developer's share of costs of Escrow. Termination of this Agreement shall be without prejudice as to whatever legal rights either party may have against the other arising from this Agreement. If no demands are made, the Escrow Agent shall proceed with the Closing as soon as possible.

5.3.1.7 Any amendment to the escrow instructions set forth in this Agreement shall be in writing and signed by both the Agency and the Developer. At the time of any amendment the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment. Failure to object in writing shall be deemed Escrow Agent's agreement to carry out its duties under such amendment.

5.3.1.8 All communications from the Escrow Agent to Agency or Developer shall be directed to the addresses and delivered in the manner established in this Agreement for notices, demands and communications between Agency and Developer.

5.3.2 Form of Deed for the Conveyance; Recordation of Documents.

The Agency shall convey to the Developer title to the Site by a Grant Deed in the form of the Grant Deed attached hereto as **Attachment No. 4**. After the Close of Escrow, the Escrow Agent shall deliver or cause to be delivered to Developer a title insurance policy insuring title in conformity with this Agreement simultaneously with delivery to Agency and to Developer of conformed copies of the recorded Grant Deed. At the Closing, the Grant Deed shall be recorded in the land recorder's office of the

County Recorder for Ventura County. The Escrow shall be deemed to "**Close**" and "**Close of Escrow**" shall be deemed to have occurred upon said recordation of the Grant Deed.

5.3.3 Title Insurance; Title Review.

Within five (5) days after the Effective Date of this Agreement, the Title Company shall deliver to Developer a preliminary report for the Site showing all title exceptions applicable thereto, a copy of all underlying documents referenced in such title commitment, and a plot of all easements, if any, applicable to the Site (the foregoing is referred to herein as the "**Title Commitment**"). No later than the date that is twenty-five (25) days after the Effective Date ("**Title Due Diligence Date**"), Developer shall notify Agency in writing ("**Title Objection Notice**") of any objections Developer may have to the title exceptions contained in the Title Commitment. In the event Developer fails to deliver the Title Objection Notice by the Title Due Diligence Date, Developer shall be deemed to have disapproved all such exceptions encumbering the Property. In the event Developer delivers a Title Objection Notice by the Title Due Diligence Date disapproving any exceptions in the Title Commitment or is deemed to have disapproved such exceptions, Agency shall have seven (7) days from receipt of Developer's Title Objection Notice or deemed disapproval to notify Developer in writing ("**Title Response Notice**") of Agency's election to either (i) agree to remove or cure the objectionable items prior to the Close of Escrow, or (ii) decline to remove or cure the objectionable items and terminate this Agreement. Agency's failure to deliver a Title Response Notice shall be deemed Agency's election to terminate this Agreement. If Agency notifies Developer of Agency's election to terminate this Agreement rather than remove and cure the objectionable items or Agency is deemed to have made that election, Developer shall have the right, by written notice delivered to Agency no later than the date that is five (5) days after receipt of Agency's Title Response Notice, or twelve (12) days after delivery of Developer's Title Objection Notice if Agency does not deliver a Title Response Notice, to agree to accept the Site subject to the objectionable items, in which event Agency's election to terminate this Agreement shall be of no effect, and Developer shall take title at the Close of Escrow subject to such objectionable items without any adjustment to or credit against the Purchase Price. The exceptions to title that Developer approves pursuant to this Section 5.3.3 shall be referred to herein as the "**Permitted Exceptions.**" The Permitted Exceptions shall also include the standard printed exceptions and exclusions contained in the form of the Title Policy approved by Developer, nondelinquent real property taxes (which shall be prorated as of the Closing as set forth in Section 5.4), and the documents to be recorded through the Escrow under this Agreement.

Nothing in this Agreement shall obligate Developer to proceed with the Close of Escrow in the event new liens or encumbrances on the Site (other than the new subdivision map and other matters contemplated by this Agreement) are discovered or arise through no fault of Developer after the date of the Title Commitment and any such additional matters shall be removed by the Agency at the Agency's sole cost and expense.

Concurrently with recordation of the Grant Deed, Title Company shall provide and deliver to Developer an ALTA Extended Coverage Owner's Policy of title insurance (Form 1970-B) ("**ALTA Policy**") with a policy coverage limit in the amount of the Purchase Price. The ALTA Policy shall show title to the Site vested in Developer. Such title policy shall be subject to the Title Company's standard terms, conditions and exceptions and the other Permitted Exceptions described above. The Title Company shall provide the Agency with a copy of the ALTA Policy. In the event the Title Company requires an ALTA survey as a condition to issuance of the ALTA Policy or as a condition to elimination of any survey exception shown therein, Developer shall provide such ALTA survey at its sole cost and expense or accept title subject to such limitation in or exception to the Title Policy.

Notwithstanding anything above which is or appears to be to the contrary, Developer shall have the right to require issuance of any endorsements to the ALTA Policy which it may desire as a condition to the Close of Escrow; provided that all expense or cost attributable to issuance of any such endorsement shall be the sole responsibility of Developer.

Agency shall not cause or consent to the recordation of any additional liens, encumbrances, covenants, conditions, restrictions, easements, rights of way or similar matters against the Site after the Effective Date which will not be eliminated prior to the Close of Escrow. Except as otherwise expressly set forth with respect to any required survey cost, the cost of such ALTA Policy shall be apportioned between Agency and Developer as set forth in Section 5.3.1.

5.4 Property Taxes and Assessments.

Ad valorem taxes and assessments, if any, levied, assessed or imposed on the Site, which apply to any period prior to Conveyance of title to the Developer, shall be borne by the Agency; ad valorem taxes and assessments, if any, levied, assessed or imposed on the Site, which apply to the period after the Conveyance, shall be borne by the Developer. Escrow Agent shall prorate all such taxes and assessments as of the Close of Escrow based upon the most recent tax bills then available. All supplemental, escape or corrected taxes and assessments thereafter arising with respect to the Site shall be prorated by Agency and Developer outside of Escrow as of the Closing Date.

5.5 Site Conditions; Completion of Due Diligence; Agency Representations and Warranties; Agency Covenants.

5.5.1 Delivery of Due Diligence Materials.

Within five (5) days after the Effective Date, Agency shall deliver to Developer copies of all surveys, soils, seismic, geological, drainage, Hazardous Material, compaction, environmental site assessments or studies and similar type reports, data, investigations, or studies for the Site and the grading improvements thereon which are in Agency's possession or control ("**Due Diligence Materials**"). Agency has not made any independent investigation or verification of such information

and, except as expressly set forth in this Agreement, makes no representations as to the accuracy or completeness of such information. If this Agreement is terminated for any reason, Developer shall return to Agency the Due Diligence Materials delivered to Developer, and all copies of the Due Diligence Materials, within ten (10) days after termination hereof. The provisions of this Section shall survive any termination of this Agreement and the Close of Escrow.

5.5.2 Right of Entry; Developer's Property Inspections.

Agency shall permit Developer and Developer's agents, contractors, consultants, and employees to enter onto the Site prior to the Closing for purposes of examining, inspecting, sampling, studying and investigating the Site, including the soil, subsurface soils, drainage, seismic and other geological and topographical matters, the existence, extent or nature of any Hazardous Materials on, under, in or about the Site, and any other matters relating to the Site or its contemplated development, including Phase I and/or Phase II site inspections and soil sampling. As a condition to any such entry, inspection, testing or investigation Developer shall (i) prior to each phase, notify Agency of the date and purpose of the intended entry; (ii) conduct all studies in a diligent and expeditious manner; (iii) comply with all applicable laws and governmental regulations; (iv) keep the Site free and clear of all materialmen's, mechanics' and other liens arising out of the entry and work performed by or on behalf of Developer; (v) maintain or assure maintenance of workers' compensation insurance on its employees entering the Site in the amounts required by the State of California; (vi) provide to Agency prior to initial entry a certificate of insurance evidencing that Developer has procured a commercial general liability insurance policy from an insurer reasonably acceptable to Agency covering any liability of Developer arising out of any activities on the Site, written on a per occurrence and not claims made basis in a combined single limit of not less than One Million Dollars (\$1,000,000), naming Agency and City as additional insureds entitled to not less than thirty (30) days cancellation notice, with such policy to be primary and non-contributing with any insurance carried by Agency or City; and (vii) promptly repair any and all damage to the Site caused by Developer, its agents, employees, contractors, or consultants in connection with such entry. Developer shall indemnify, defend and hold harmless Agency, City, and their respective officers, employees, and agents from and against any and all loss, cost, liability or expense (including reasonable attorneys' fees) arising from the entry of Developer, provided, that the foregoing indemnity shall not apply to any loss, cost, liability or expense arising from or related to (i) matters discovered by Developer during its investigation of the Property, including any latent defects in or Hazardous Materials on or in the Property, or any diminution in value of the Property as a result thereof, or (ii) negligent or wrongful acts or omissions of the Agency or its Representatives. Such indemnity shall survive the Close of Escrow or the termination of this Agreement for any reason.

5.5.3 Due Diligence Notice.

Developer shall notify Agency in writing on or before the expiration of the Due Diligence Period of Developer's approval or disapproval, in its sole and absolute discretion, of the Due Diligence Materials and the condition of the Site and Developer's

investigations with respect thereto ("**Due Diligence Notice**"). Developer's failure to deliver a Due Diligence Notice approving the Site on or before the expiration of the Due Diligence Period shall conclusively be deemed Developer's disapproval of the Due Diligence Materials and the condition of the Site. Developer's disapproval or deemed disapproval shall be deemed Developer's election to not acquire the Site and, in such event, this Agreement shall terminate and any documents and funds delivered by either party shall be returned to it, including return of the Developer's Deposit to Developer.

5.5.4 AS IS Conveyance.

Subject to the Developer's receipt of a title policy meeting the requirements of Section 5.3.3 above, the provisions of Section 5.7 below, and the express representations and warranties of Agency set forth herein, Developer shall accept the Site and its title thereto in an "**As Is/Where Is**" condition, and the Agency makes no representation or warranty concerning the physical, environmental, geotechnical, or other condition of the Site, the suitability of the Site for the Project, or the present use of the Site; or with respect to the existence or absence of any "Hazardous Materials" thereon. Except as expressly set forth herein, developer is not relying on any, oral or written representations or warranties made by agency, its agents, brokers, employees, independent contractors, or representatives.

5.6 Hazardous Materials Indemnification.

The term "**Hazardous Materials Contamination**" shall mean the contamination of the improvements, facilities, soil, groundwater, air or other elements on, in or under the Site by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in, or under any other property as a result of Hazardous Materials emanating from the Site.

Following the Conveyance, Developer agrees to save, protect, defend, indemnify and hold harmless the Agency from and against any and all liabilities, suits, actions, claims, demands, damages (including, without limitation, reasonable attorneys' fees) (the foregoing are hereinafter collectively referred to as "**Environmental Liabilities**") which may be incurred or suffered by the Agency resulting from the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the Site of any Hazardous Materials or Hazardous Materials Contamination caused by Developer or its Representatives after the Close of Escrow, or the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of such Hazardous Materials on, under, in or about, to or from, the Site resulting from such Hazardous Materials or release of Hazardous Materials Contamination caused by Developer or its Representatives after the Close of Escrow. Developer's obligations under this Section 5.6 shall survive after the issuance of the Final Certificate of Completion or any termination of this Agreement. Notwithstanding anything above to the contrary, Developer shall not be responsible for indemnifying Agency, City or their Representatives from Environmental Liabilities arising from Hazardous Materials or Hazardous Materials Contamination on the Site where such Environmental Liabilities were caused by, result from or arise in connection with the act or omission of the

indemnified party, or were present on or below the Site, or migrated onto the Site, prior to the Closing.

5.7 Discovery of Hazardous Materials Prior to Completion of Grading.

(a) Identification of Projected Remediation Costs. In the event that the Developer has reason to suspect or believe that, prior to the later of (a) the completion of the grading of the Site in accordance with the approved grading plan, or (b) the Conveyance, Hazardous Materials are located in, on or under the Site, an environmental consultant selected by Developer and acceptable to the Agency (an "**Environmental Consultant**") shall undertake any further investigation necessary to determine the environmental condition of the Site, and shall estimate the projected cost, if any, of all activities necessary to design, process, permit and remove such Hazardous Materials or contamination in, on or under the Site or to otherwise complete an environmental clean-up of the Site for residential use in compliance with all Governmental Requirements (the "**Remediation Cost**").

(b) Allocation of Remediation Costs Prior to Conveyance. If the projected Remediation Cost is identified prior to the Conveyance and is less than Fifty Thousand Dollars (\$50,000), neither party shall have the right to terminate this Agreement, the parties shall proceed with the required remediation work prior to the Close of Escrow, and the Developer and the Agency shall each pay one-half of such required remediation work. If the Environmental Consultant concludes (either initially or during the course of performing the remediation work) that the Remediation Cost identified prior to the Conveyance will exceed Fifty Thousand Dollars (\$50,000), then the Parties shall meet and discuss the allocation of any Remediation Cost in excess of Fifty Thousand Dollars (\$50,000) (the first \$50,000 of Remediation Cost being allocated between Agency and Developer as set forth in this Section 5.7(b)). If, within sixty (60) days after first meeting to discuss such allocation of costs, the Parties have not agreed upon an allocation of such additional Remediation Costs (and if Developer does not elect to assume responsibility for such additional Remediation Costs), then this Agreement shall terminate.

(c) Allocation of Remediation Costs After Conveyance. If the projected Remediation Cost is first identified after the Conveyance but prior to the completion of grading and is less than One Hundred Thousand Dollars (\$100,000), neither party shall have the right to terminate this Agreement and the parties shall promptly proceed with the required remediation work. The Developer and the Agency shall each pay one-half of such required remediation work. If the Remediation Cost is first identified after the Conveyance but prior to the completion of grading, and is projected to exceed One Hundred Thousand (\$100,000) (either initially or during the course of performing the remediation work), then the Parties shall meet and discuss the allocation of any Remediation Cost in excess of One Hundred Thousand Dollars (\$100,000) (the first \$100,000 of Remediation Cost being allocated between Agency and Developer as set forth in the second sentence of this subsection 5.7(c)). If, within sixty (60) days after first meeting to discuss such allocation of costs, the Parties have not agreed upon an allocation of such additional Remediation Costs (and if Developer does not elect to assume responsibility for such additional Remediation Costs), then the Parties shall be

deemed to have elected to rescind the Conveyance and terminate this Agreement, and, promptly thereafter, Developer shall convey the Site to the Agency free of any deed of trust, mortgage or other encumbrances placed upon the Site by Developer (in connection with which all closing costs shall be allocated in the same manner as in the original conveyance).

(d) Performance of Work. All remediation work performed pursuant to this Section 5.7 shall be performed by an environmental contractor selected by Developer and acceptable to the Agency and Agency shall be the signator party for any Hazardous Materials manifests required in connection with the performance of any remediation work pursuant to this Section 5.7. Notwithstanding anything above which is or appears to be to the contrary in Section 5.7 above, Agency shall be responsible at its sole cost and expense for remediating any Hazardous Materials or Hazardous Materials Contamination located on the Site where the same were caused by or resulted from the actions of the Agency, City or their Representatives, or existed prior to the Closing Date. Developer shall not be responsible for remediation costs in connection Hazardous Materials that were not caused or placed on site by Developer.

5.8 Environmental Inquiries.

In the event that, after Developer takes possession of the Site, Developer discovers the presence of Hazardous Materials under or upon the Site or there is a release of Hazardous Materials on or from the Site, the Developer shall provide to the Agency a copy of any environmental permits, disclosures, applications, entitlements or inquiries relating to such Hazardous Materials, including any 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 Governmental Restrictions relating to Hazardous Materials and underground tanks.

ARTICLE 6. DEVELOPMENT OF THE SITE.

6.1 Developer's Construction Obligations.

6.1.1 Construction of Improvements.

Developer shall construct all of the Improvements in compliance with the Site Plan, the Schedule of Performance, the Scope of Development, the final Plans approved by City in accordance with Section 6.2 below, all Applicable Governmental Restrictions, and the terms and provisions set forth in this Agreement. In the event of any inconsistency between the description of the Improvements in this Agreement and the final plans approved by City, the approved plans shall govern. The Developer agrees to supply information and otherwise assist Agency, upon Agency's request, to determine the environmental impact of the proposed development, and to allow Agency to prepare and process such environmental documents, if any, as may need to be completed for the development pursuant to the requirements of the California Environmental Quality Act ("CEQA").

6.1.2 Scope of Development; Site Plan; Construction Drawings.

Subject to approval by regulatory agencies, the Site shall be developed with twenty (20) for-rent Residential Apartment Units, or such other number of units or configuration as the parties may agree to during the Development Approval Process, all as more particularly described in this Agreement and the Scope of Development. The parties shall determine by mutual agreement, prior to the Closing, the number of Residential Units that shall be restricted to Affordable Housing Cost to Low or Lower Income Tenants and Very Low Income Tenants.

The Improvements on the Site, including all Units and all on and off site improvements constructed in connection therewith, shall be completed in one (1) phase.

The Developer has previously submitted to the Agency, and the Agency hereby approves, the Site Plan attached hereto as **Attachment No. 1**. The Site Plan depicts the overall development plan for the Site and shall guide all subsequent development. All material changes to or adjustments of the Site Plan shall require the prior written consent of the Agency and the Developer, which approval shall not be unreasonably withheld, conditioned or delayed. As set forth in more detail in Section 6.2 below, following execution of this Agreement, Developer shall submit to the City for its approval preliminary and final “**Plans**” (as defined in Section 6.3.1) for the Site which will be progressively more detailed and will constitute a logical evolution of the Site Plan. During the preparation of all Plans, Agency and Developer shall hold regular meetings to coordinate the preparation, submission and review of all Plans by the City staff and to expedite City review and approval.

The Improvements contemplated for the Site are described in this Section 6.1.2 and in the Scope of Development. Subject to terms of this Agreement, including, without limitation, Section 9.15 below, Developer shall commence, construct and complete or cause the commencement, construction and completion of the Improvements, and shall make all submissions in connection therewith, prior to the deadlines set forth in the Schedule of Performance and in accordance with both the Scope of Development and the terms of this Agreement.

Representatives of Agency shall have the right of access to the Site, without charges or fees, upon advance notice and at normal construction hours during the period of construction 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 all Agency Representatives comply with all safety rules and do not interfere with, delay or interrupt Developer’s construction activities. Agency does not by this Section 6.1.2 assume any responsibility or liability for supervision or inspection of the construction of the Project. Agency shall indemnify, defend and hold Developer, and its principals, members, Affiliates, and employees harmless from any liabilities, suits, action, claims, demands or damages (including reasonable attorneys’ fees) arising from any property damage or personal injury caused or incurred by any Agency or City Representatives performing such inspections or otherwise arising from any entry onto the Site by any Agency or City Representatives.

6.1.3 Architectural Quality.

Developer understands and agrees that it will be required to develop the Site by means of materials, workmanship and an overall design that will result in a residential complex that is of good quality and of benefit to the Site and the community.

6.1.4 Land Use Approvals.

Prior to the Close of Escrow and as a condition hereto, Developer shall have, at his own expense, secured or caused to be secured any and all approvals, land use, and other entitlements which may be required for the Project by City or any other governmental agency with jurisdiction over the Project, including but not limited to General Plan Amendment, Zone Changes etc. Following the Effective Date of this Agreement, Developer shall without limitation, apply for and use its reasonable good faith efforts to secure the following:

a. Residential Planned Development Permit

b. All permits required by the City, County of Ventura, and other governmental agencies with jurisdiction over the improvements, including the State General Construction Storm Water Permit's Storm Water Pollution Prevention Plan requirements and any other requirements therein.

The execution of this Agreement does not constitute the granting of or commitment to obtain any required land use permits, entitlements or approvals required by the Agency or the City Planning Department.

6.2 Submissions and Approvals.

6.2.1 Schedule of Performance; Improvements; Plans.

The **Schedule of Performance** specifies deadlines for the submission by Developer to City of various submissions, including preliminary and final construction drawings, grading plans, architectural, mechanical, electrical, structural and other plans, specifications, building elevations and renderings, landscape plans, and other like plans required by City and City approved RPD in connection with review of the Improvements to be constructed on the Site by Developer (collectively, the "**Plans**") and the issuance of the necessary permits therefor. Developer is responsible for paying any and all development impact fees imposed by the City.

6.2.2 Submission of Plans.

6.2.2.1 Not later than the outside dates set forth in the Schedule of Performance, Developer shall submit to City the preliminary and final Plans for the Improvements to be constructed on the Site by Developer. All Plans are subject to the approval of City in accordance with the generally applicable procedures and requirements of the City. The Agency and Developer shall communicate and consult informally, as frequently as is necessary, to ensure that the formal submission of all

documents and Plans to the City can receive reasonably prompt and speedy consideration.

6.2.3 Submission of Evidence of Financing; Submission of Evidence of Construction Contract.

6.2.3.1 Construction Loan.

By the deadline specified therefor in the Schedule of Performance, Developer agrees to deliver to Agency, for its written approval, which approval shall not be unreasonably withheld, conditioned or delayed, a written commitment(s) ("**Construction Commitment**"), from a lender (licensed to do business in California if legally required) that is financially secure and possesses a sound credit rating ("**Construction Lender**") by which said Construction Lender shall agree, subject to customary closing conditions and final loan documentation consistent with the terms of said written commitment(s), to make a construction loan to Developer (the "**Construction Loan**") for the development and construction of the first phase of the Improvements in accordance with this Agreement. Such Construction Loan may be phased to correspond to the contemplated phasing of the Improvements and may be subject to reasonable phasing conditions.

In the event of any disapproval of the Construction Commitment for the first phase of improvements, Agency shall, concurrently with delivery of the notice of such disapproval to Developer, inform Developer in writing of the reasons for disapproval and the required changes to the Construction Commitment. The written notice of disapproval from the Agency is referred to herein as the "**Commitment Disapproval Notice**". If Developer objects to the requested changes, then the Agency and Developer agree to meet to discuss their differences within ten (10) days after the Developer gives such notice. Following such meeting, Developer and Construction Lender shall revise the Construction Commitment and resubmit it for approval to the Agency, as required by this Agreement, by the later of (i) thirty (30) days after receipt of the Commitment Disapproval Notice, or (ii) ten (10) days after such meeting, unless the nature of such changes requires a longer period of time, in which case Developer shall resubmit said Construction Commitment as soon as reasonably possible. Any such resubmissions shall be approved or disapproved and revised within the times set forth herein with respect to the initial submission.

The amount of the Construction Commitment shall not be less than (i) the estimated cost of the development of the Improvements at issue ("**Development Costs**"), less (ii) the amount of the Developer's equity contribution, if any, to the cost of constructing the Improvements.

In the event Developer will finance all or a portion of the Development Costs by means of an equity contribution, or equity financing source, Developer agrees to demonstrate, to Agency's reasonable satisfaction, the source of the funds providing the equity contribution and that the amount of such equity funds is sufficient to cover all contemplated Development Costs (other than those financed by the Construction Loan) necessary to fully complete and market the subject

Improvements. The availability of such equity funds shall be established by the certification from the chief financial officer or chief executive officer of Developer or its manager confirming that Developer has sufficient funds for funding of such Development Costs and that such funds have been committed to such Development Costs. If all Development Costs will be funded by such equity funds, no Construction Loan shall be required and all Construction Commitment and Construction Loan requirements shall be deemed satisfied by proof of the availability of such equity funds.

The Construction Loan shall be consistent with the terms and provisions of this Agreement and Agency review of any Construction Loan shall be only for the purpose of confirming that such Construction Loan complies with all of the terms and requirements set forth in this Agreement. Prior to execution of any final Construction Loan documents by Developer, Developer shall secure the Agency's approval of the terms and conditions of those Construction Loan documents for compliance with the requirements of this Agreement and the previously approved Construction Commitment. Agency shall approve or disapprove said Construction Loan documents within ten (10) working days of their submission. Agency's review and approval or disapproval of said Construction Loan documents shall be solely for the purpose of determining the consistency of said documents with the Construction Commitment, this Agreement and any prior understanding or agreement reached by Agency and the Construction Lender. Concurrent with any disapproval, Agency shall inform Developer in writing of the reasons for such disapproval. If Agency fails to notify Developer of its approval or disapproval and the reasons for any disapproval within that thirty (30) day period, then the Construction Loan documents shall be deemed approved.

6.2.3.2 Construction Contract.

By the deadline specified therefor in the Schedule of Performance, Developer agrees to deliver to Agency, for its review and approval, a construction contract(s) (the "**Construction Contract**") for at least the first phase of the Improvements, which Construction Contract shall obligate a reputable and financially responsible general contractor(s) ("**General Contractor**"), licensed in California and with experience in completing the type of Improvements contemplated by this Agreement, to commence and complete the construction of the applicable Improvements in accordance with this Agreement. Developer shall also have the right, at its election, to act as its own General Contractor with respect to construction of the Project, in which case, the Construction Contract requirement shall be deemed satisfied by such election.

Agency shall approve or disapprove said Construction Contract within thirty (30) days of its submission. Agency's disapproval shall be unreasonably withheld, conditioned or delayed. In the event of any disapproval, Agency shall, concurrently with delivery of the notice of such disapproval to Developer, inform Developer in writing of the reasons for disapproval and the required changes to the Construction Contract. If Agency fails to notify Developer of its approval or disapproval and the reasons for any disapproval within such thirty (30) day period, then the Construction Contract shall be deemed approved. Developer shall have ten (10)

business days from receipt of any notice from the Agency specifying required changes ("**Construction Contract Disapproval Notice**"), within which to notify Agency that Developer agrees to make such changes or objects to any requested changes. If Developer notifies Agency within said 10-day period of its objections to the requested changes, then the Agency and Developer agree to meet to discuss their differences within ten (10) days after the Developer gives such notice. Following such meeting, Developer and the General Contractor shall revise the Construction Contract and resubmit it for approval to the Agency as required by this Agreement by the later of (i) thirty (30) days after receipt of the Construction Contract Disapproval Notice, or (ii) ten (10) days after such meeting, unless the nature of such changes requires a longer period of time, in which case Developer shall resubmit said Construction Contract as soon as reasonably possible. Any such resubmissions shall be approved or disapproved and revised within the times set forth herein with respect to the initial submission.

6.2.4 Lot Combination.

Prior to the Conveyance, Developer, at its sole cost, shall cause to be filed and Developer shall obtain approval of Lot Combination of the Site ("**Lot Combination**") defining the entire Site as one legal lot. Agency shall reasonably cooperate with Developer in the filing and processing of such Lot Combination, including execution and delivery of any required applications and submissions. Following the Conveyance, Developer shall diligently pursue recordation of a map for the Site, consistent with the approved Lot Combination, within the period provided in the Schedule of Performance.

6.3 Costs of Development.

Except as otherwise expressly set forth in this Agreement, Developer shall bear all costs incurred in connection with the construction and maintenance (during the period of construction) of all Improvements constructed by Developer pursuant to this Agreement, including without limitation all costs incurred in connection with the investigation and preparation of the Site for development, and all costs of preparation of any Plans or other submissions made by Developer pursuant to this Agreement. Notwithstanding anything herein to the contrary, the Site shall be delivered by Agency to Developer in As Is Condition.

Before commencement of construction or development of any buildings, structures or other works of improvement upon the Site by Developer, the Developer shall secure or cause to be secured any and all permits which may be required by the City or any other governmental agency affected by such construction, development or work. Except as otherwise expressly provided herein, such permits shall be secured at the Developer's own expense. The Developer shall be required to comply with all conditions to approval of all zoning changes, general plan amendments, subdivision maps, conditional use permits, CEQA approvals, precise plans or any other land use approvals, and, except as otherwise expressly provided in this Agreement, all costs of compliance shall be at the sole expense of the Developer.

6.4 Agency Assistance.

In order to assist in funding the construction of the Project, Agency provided financial assistance to the Developer (the “**Agency Loan**”) in an amount not to exceed Three Hundred and Fifty Thousand Dollars (\$350,000) to be used to offset predevelopment costs. The Promissory Note dated June 4, 2009, stipulates the use, terms and condition of the Agency Loan. Developer will repay Agency Loan with the first draw of funds from the Construction Loan.

6.5 Insurance.

Developer and its successors and assigns shall procure or cause to be procured and shall keep in full force and effect, commencing upon the Close of Escrow and continuing until the issuance of the Final Certificate of Completion or earlier termination of this Agreement, for the mutual benefit of Developer and Agency, a commercial general liability policy in the amount of Two Million Dollars (\$2,000,000) combined single limit policy, and a comprehensive automobile liability policy in the amount of One Million Dollars (\$1,000,000), combined single limit, or such other policy limits as the Agency may approve at its discretion, including contractual liability, as shall protect the Developer, City and Agency from claims for such damages. Such policy or policies shall be written on an occurrence form. The Developer shall furnish a certificate of insurance countersigned by an authorized agent of the insurance carrier on a form approved by the Agency setting forth the general provisions of the insurance coverage. This countersigned certificate shall name the City and the Agency and their respective officers, agents, and employees as additionally insured parties under the policy, and the certificate shall be accompanied by a duly executed endorsement evidencing such additional insured status. The certificate and endorsement by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify City and the Agency of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by the Developer shall be primary insurance and not be contributing with any insurance maintained by the Agency or City, and the policy shall contain such an endorsement. The required insurance shall be obtained and the required certificate shall be furnished by the Developer by the time set forth in the Schedule of Performance. In no event shall the limits of any policy be considered as limiting the liability of Developer hereunder or limiting the indemnity obligation set forth in the Agreement.

Following Agency acceptance and approval of any certificates, endorsements or offered coverage submitted by Developer to Agency in satisfaction of the requirements of this Section, such insurance coverage shall be deemed in compliance with and shall constitute conclusive satisfaction of the requirements of this Section and Agency shall not thereafter assert that such insurance coverages are insufficient to satisfy the requirements of this Agreement.

6.6 Taxes, Assessments and Liens.

Prior to recordation of the Final Certificate of Completion, Developer shall not place or authorize to be placed on the Site, or any portion thereof, any Encumbrance (other than the approved Construction Loan), without the prior written consent of Agency, which approval shall not be unreasonably withheld, conditioned or delayed so long as the Encumbrance is for the acquisition of the Site or the development of the Project. Developer may contest the validity or amount of any tax assessment or Encumbrance upon the Site, and exercise all remedies available to the Developer with respect thereto; provided, however, notwithstanding anything in this Agreement to the contrary, no contest, opposition or objection shall be continued or maintained after the date on which the imposition or assessment at which it is directed becomes delinquent unless the Developer has paid such imposition or assessment under protest or posted a bond or other security sufficient to fully protect the Site against any lien which could arise from the contest of such imposition or assessment.

6.7 Security Financing; Rights of Lenders.

Notwithstanding anything that is or appears to be to the contrary in Sections 2.3 or 6.6, Developer may, prior to issuance of the Final Certificate of Completion, encumber the Site with a Construction Loan provided that such loan is obtained in accordance with and complies with all of the requirements, terms and conditions expressly imposed by this Agreement.

The holder of any mortgage or deed of trust authorized by this Agreement shall not be obligated by the provisions of this Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any covenant or any other provision in the Grant Deed for the Site be construed to obligate such holder to construct or complete the Improvements. However, 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 or authorized by this Agreement.

6.8 Notice of Default to Construction Lender; Right to Cure;

With respect to any mortgage or deed of trust granted by Developer as provided herein, whenever the Agency may deliver any notice or demand to Developer with respect to any breach or default by the Developer in completion of construction of the Improvements, the Agency shall at the same time deliver to each holder of record of any mortgage or deed of trust authorized by this Agreement a copy of such notice or demand. Each such holder shall (insofar as the rights granted by the Agency are concerned) have the right, at its option, within thirty (30) days after the receipt of the notice, to cure or remedy or commence to cure or remedy and thereafter to pursue with due diligence the cure or remedy of any such default and to add the cost thereof to the mortgage debt and the lien of its mortgage. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Improvements, or any portion thereof (beyond the extent necessary to conserve or protect the improvements or construction already made) without first

having expressly assumed the Developer's obligations to the Agency by written agreement reasonably satisfactory to the Agency. The holder, in that event, must agree to complete, in the manner provided in this Agreement, the Improvements to which the lien or title of such holder relates. Any such holder properly completing such improvement shall be entitled to a Certificate of Completion. It is understood that a holder shall be deemed to have satisfied the thirty (30) day time limit set forth above for commencing to cure or remedy a Developer default which requires title and/or possession of the Site (or portion thereof) if and to the extent any such holder has within such thirty (30) day period commenced proceedings to obtain title and/or possession and thereafter the holder diligently pursues such proceedings to completion and cures or remedies the default.

6.9 Failure of Holder to Complete Improvements.

In any case where, sixty (60) days after obtaining title to or possession of the Site, the holder of any mortgage or deed of trust creating a lien or encumbrance upon the Site or any part thereof has not exercised the option to construct, or, if it has exercised the option, has not proceeded diligently with construction of the Improvements, the Agency may purchase the mortgage or deed of trust by payment to the holder of the amount of the unpaid mortgage or deed of trust debt, including principal and interest and all other sums due to such holder and secured by the mortgage or deed of trust. If the ownership of the Site or any part thereof has vested in the holder, the Agency, if it so desires, shall be entitled to a conveyance from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following:

- (a) The unpaid mortgage or deed of trust 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 derived by the lender from operations conducted on the Site or other income received during foreclosure proceedings);
- (b) All expenses with respect to foreclosure;
- (c) The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Site or any part thereof;
- (d) The costs of any improvements made by such holder; and
- (e) An amount equivalent to the non-default interest that would have accrued on the aggregate of such amounts 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 the Agency.

6.10 Right of the Agency to Cure Mortgage or Deed of Trust Default.

In the event of a default or breach by Developer under a mortgage, deed of trust, or other security interest or conveyance for financing prior to the issuance of the Final

Certificate of Completion, and subject to the applicable period during which Developer may cure such default, Agency may cure the default prior to completion of any foreclosure. In such event, Agency shall be entitled to reimbursement from Developer of all costs and expenses reasonably incurred by Agency in curing the default, which right of reimbursement shall be secured by a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be subject to: (a) any mortgage, deed of trust or other security instrument or sale and leaseback or other conveyance for financing permitted by this Agreement; and (b) any rights or interests provided in this agreement for the protection of the holders of such mortgages, deeds of trust, or other security instruments, the lessor under a sale and lease-back, or the grantee under such other conveyance for financing.

6.11 Right of the Agency to Satisfy Other Liens on the Site After Title Passes.

After the Conveyance of title or possession and prior to the completion of construction, and after the Developer has received written notice and has failed within thirty (30) days thereafter to adequately bond against or satisfy any liens or encumbrances on the Site which are not otherwise permitted under this Agreement, the Agency shall have the right, but not the obligation, to satisfy any such liens or encumbrances. In such event Developer shall be liable for, and the Agency shall be entitled to reimbursement from the Developer, within ten (10) days of written demand, of any costs or expenses reasonably incurred by Agency in protecting the Site against or securing the discharge of such lien or encumbrance. Such amount shall become a lien on the Site in accordance with the provisions of this Section 6.11; provided that such lien shall be subject to: (a) any mortgage, deed of trust or other security instrument or sale and leaseback or other conveyance for financing permitted by this Agreement; and (b) any rights or interests provided in this Agreement for the protection or the holders of such mortgages, deeds of trust, or other security instruments, the lessor under a sale and lease-back, or the grantee under such other conveyance for financing.

6.12 Certificate of Completion.

Provided construction of all of the Improvements have been completed, Agency shall, upon the request of the Developer, furnish to the Developer, a Certificate of Completion in the form attached hereto as **Attachment No. 6**. The "**Certificate of Completion**" shall conclusively establish that the Agency has determined that construction of the Improvements required by this Agreement has been satisfactorily completed in compliance with the terms of this Agreement. The Certificate of Completion shall be in such form as to permit it to be recorded in the Office of the Ventura County Recorder against the remaining portions of the Site in which Developer holds any interest.

If the Agency refuses or fails to furnish the Certificate of Completion upon written request from Developer, the Agency shall, within five (5) business days of receipt of said written request, provide Developer with a written statement of the reasons for the Agency's refusal or failure to furnish the Certificate of Completion identifying any actions Developer is required to take in order to obtain the applicable Certificate of Completion. In any event, Agency shall not unreasonably withhold, condition or delay issuance of

any Certificate of Completion. If the reason for the refusal to issue the Certificate of Completion is confined to the immediate unavailability of specific finish items or materials for landscaping or other minor "punch list" items, Agency shall issue its Certificate of Completion upon the posting of cash, a bond, or other security reasonably acceptable to Agency in an amount representing the fair value of the work not yet completed, and Developer shall thereafter diligently complete the uncompleted "punch list" work.

The Certificate of Completion shall not be construed as a representation or warranty by Agency that the Project satisfies any obligation of Developer to any holder of an Encumbrance, or to any insurer of any such holder. Such Certificate of Completion is not a notice of completion as referred to in California Civil Code Section 3093.

6.13 Compliance with Laws.

Developer shall carry out the design, construction and operation of the Project in conformity with all applicable federal, state, and local laws, including the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City of Moorpark Municipal Code, all applicable disabled and handicapped access requirements, and all environmental mitigation measures imposed as conditions of approval of the Project.

6.14 Indemnification.

Developer shall indemnify, defend (with legal counsel reasonably acceptable to Agency), assume all responsibility for, and hold Agency and the City, and their respective officers, officials, members, employees, agents, representatives, and volunteers, harmless from all claims, demands, damages, defense costs or liability of any kind or nature relating to (i) any damages to property or death or injuries to persons (including reasonable attorneys' fees and costs and expert witness fees), which may be caused by the negligent acts or omissions (where there was a duty or obligation to act) or willful misconduct of Developer under this Agreement, whether such activities or performance of this Agreement be by Developer or by anyone directly or indirectly employed or contracted with by Developer and whether such damage shall accrue or be discovered before or after termination of this Agreement, except to the extent such matters are caused by the negligence or willful misconduct of Agency, the City, or their respective officers, officials, members, employees, agents, representatives, or volunteers acting in an official capacity; and (ii) any litigation, administrative or adjudicative challenge by third parties to the validity or implementation of this Agreement, the entitlements, or the certification or approval of the environmental document(s) with respect to the Project and this Agreement; provided Developer shall not have any indemnity obligation under this Agreement with respect to any such litigation which City may elect to pursue over Developer's objection. Notwithstanding the foregoing, the above indemnity and defense obligations shall not apply, and Developer shall have no liability or responsibility hereunder, to indemnify or defend the Agency in connection with lawsuits or other legal challenges by third parties who oppose the project or its claimed environmental impacts.

ARTICLE 7. USE AND MAINTENANCE OF THE SITE.

7.1 Uses.

The Developer agrees for itself, its successors and assigns, which covenants shall run with the land and bind every successor or assign in interest of Developer, that during development of the Site pursuant to this Agreement and thereafter, neither the Site nor the Improvements, nor any portion thereof, shall be improved, used or occupied in violation of any Applicable Governmental Restrictions or the restrictions of this Agreement. Furthermore, Developer and its successors and assigns shall not initiate, maintain, commit, or permit the maintenance or commission on the Site or in the Improvements, or any portion thereof, of any nuisance, public or private, as now or hereafter defined by any statutory or decisional law applicable to the Site or the Improvements, or any portion thereof.

Notwithstanding anything to the contrary or that appears to be to the contrary in this Agreement, Developer hereby covenants, on behalf of itself, and its successors and assigns, which covenants shall run with the land and bind every successor and assign in interest of Developer, that, for the term specified herein and in the documents executed and recorded pursuant hereto, Developer and such successors and assigns shall use the Site solely for the purpose of constructing, maintaining and using a residential project meeting the requirements and restrictions of this Agreement, including, without limitation, restriction of the lease of the Restricted Residential Units by Developer only to Qualified Renters.

7.2 The restrictions upon renters and rental units shall continue in effect for the longest time feasible, but in any case shall not be less than a period of 55 years.

During the term of this Agreement, so long as Developer has an ownership interest therein, Developer shall maintain, or cause to be maintained, all Improvements owned by Developer on the Site, in good order, condition, and repair and in accordance with the approved Plans for the Project and all Applicable Governmental Restrictions

7.3 Obligation to Refrain from Discrimination.

Developer agrees to comply with all fair housing laws, and to that end there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Site or any portion thereof.

7.4 Form of Nondiscrimination and Nonsegregation Clauses. Developer herein covenants by and for itself, its successors and assigns, 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.

Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.

All deeds, leases or contracts entered into by Developer relating to the Project shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) 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 (l) 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.

"Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph."

(b) 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 (l) 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 lease.

“Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Sections 12955 of the Government Code shall apply to the immediately preceding paragraph.”

(c) 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 paragraphs (l) 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 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.”

“Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.”

The foregoing covenants shall, without regard to technical classification and designation, be binding for the benefit and in favor of Agency, its successors and assigns, any occupants of the Project, and any successor in interest to the Project. The covenants against discrimination shall remain in effect in perpetuity.

7.5 Rental of Residences by Developer.

Moorpark Resident Priority. The Developer, to the fullest extent allowed by law, shall provide every opportunity for Moorpark residents to occupy the Units during the initial occupancy of the Project. Said priority shall include, at a minimum, a Thirty (30) day initial lease period exclusive to City of Moorpark residents.

Reporting. Following the commencement of marketing of the Units, Developer shall provide Agency with quarterly reports identifying the Units leased, and such other information as Agency may reasonably request. If the project is financed through tax credits, the submittal of copies of the reports required under TCAC shall satisfy the reporting requirement hereunder. Agency agrees to exercise reasonable efforts to assist Developer in connection with implementation of the Developer's marketing efforts, including assistance with promotion, marketing and affordable renter qualification activities, and by incorporating project materials, presentations, mailings, information and announcements into Agency's general housing assistance presentations, mailings and materials; provided, that, unless Agency agrees otherwise in its sole discretion, Agency shall not be required to develop any separate Project focused materials or programs or incur any out-of-pocket expenses in connection with such assistance to Developer.

7.6 Effect and Duration of Covenants.

After issuance of a Certificate of Completion in accordance with Section 6.12, all of the terms, covenants, agreements and conditions set forth in this Agreement relating to the construction of the Improvements on the Site shall cease and terminate with the exception of any Developer's indemnity obligations hereunder which have accrued as of such date and any other provisions that expressly survive termination. All of the other applicable terms, covenants, and conditions set forth in this Agreement relating to the use, operation, ownership and maintenance of the Site shall survive and shall remain in full force and effect in accordance with their terms. Except as otherwise expressly provided in this Agreement, the covenants, conditions, restrictions, warranties and representations established in this Agreement shall without regard to technical classification or designation, be binding upon and inure to the benefit of the successors, transferees and assigns of each of the Parties hereto, whether by merger, consolidation, sale, transfer, liquidation or otherwise.

ARTICLE 8. DEFAULTS, REMEDIES AND TERMINATION.

8.1 Defaults.

Subject to extensions of time pursuant to Section 9.15 below, a failure to observe or perform any restriction, covenant or obligation applicable to the non-performing Party under the terms of this Agreement, including, without limitation, the failure of a Party to meet any of the deadlines specified in the Schedule of Performance, shall, after the giving of the notice required by Section 8.3, constitute a default ("**Default(s)**") under this Agreement by the non performing party.

8.2 Right to Cure Events of Default.

Unless a different cure period is expressly provided elsewhere in this Agreement, the Party whose acts or omissions to act give rise to a Default as defined in Section 8.1 shall be entitled to cure, correct, or remedy such Default, if (i) such defaulting Party cures the Default within thirty (30) days of receipt of the Notice of Default, as defined in Section 8.3, or (ii) for Defaults that cannot reasonably be cured, corrected, or remedied within such thirty (30) day time period, such party commences to cure such failure or delay within such time period and diligently and continuously prosecutes such cure, correction or remedy to completion. If a Default is not cured within the applicable period provided above, it shall thereafter constitute an **"Uncured Default"**.

8.3 Notice of Default.

The non-breaching Party shall give written notice of Default ("**Notice of Default**") to the non-performing Party, specifying the breach of this Agreement complained of by the non-breaching Party. Failure or delay in giving such notice shall not constitute a waiver of any breach of this Agreement. As provided in Section 8.1, following the giving of such Notice of Default, the non-performance which is complained of shall constitute a Default under this Agreement, unless and until the same has been cured by the non-performing Party.

8.4 Waiver of Default.

Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any of its rights or remedies as to any Default shall not operate as a waiver of any Default or of any rights or remedies in connection therewith or of any other rights and remedies provided by this Agreement or by law, or deprive 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.

8.5 Legal Actions and Remedies.

8.5.1 Institution of Legal Actions.

In addition to any other rights and remedies and subject only to the limitations of this Section 8.5.1, either Party may institute legal action to cure, correct or remedy any Uncured Default, to recover damages for any Uncured Default, or to obtain any other remedy consistent with the purpose of this Agreement; provided, however, that notwithstanding anything in the foregoing to the contrary, in no event shall a party be entitled to obtain damages from the other party for lost profits or any other like consequential damages.

8.6 Specific Performance.

If either Party commits an Uncured Default under any of the provisions of this Agreement, the non-defaulting Party at its option may thereafter (but not before) commence an action for specific performance of the terms of this Agreement.

8.7 Damages.

Subject to the limitations set forth in Sections 8.5.1, if either Party commits an Uncured Default with regard to any of the provisions of this Agreement, the defaulting Party shall be liable to the other Party for any damages caused by such Default.

8.8 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 time or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

8.9 Attorneys' Fees.

In the event that either Party hereto brings any action or files any proceeding to declare the rights granted herein or to enforce any of the terms of this Agreement or as a consequence of any breach by the other Party of its obligations hereunder, 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 to the prevailing Party, the prevailing Party in any lawsuit on this Agreement shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

8.10 Reentry and Revesting of Title in the Agency After the Conveyance and Prior to Completion of Construction.

The Agency has the right to reenter and take possession of the portion of the Site then owned by Developer, with all improvements thereon, and terminate and revest in the Agency the estate conveyed to the Developer if after Conveyance and prior to the issuance of the Certificate of Completion for the Site, the Developer (or its successors in interest) shall, subject to extension for force majeure in accordance with Section 9.15:

(a) fail to start the construction of the Improvements by the time required by this Agreement and fail to cure such Default after written notice thereof from the Agency within the cure period set forth in Section 8.2 above; or

(b) abandon or substantially suspend construction of the Improvements required by this Agreement for a period of thirty (30) days and fail to resume such construction within thirty (30) days after written notice thereof from the Agency; or

(c) materially fail to complete construction of the Improvements, or any portion thereof, within the time set forth in this Agreement, and fail to cure such Default

after written notice thereof from the Agency within the cure period set forth in Section 8.2 above; or

(d) contrary to the provisions of Section 2.3, Transfer or suffer any involuntary Transfer of the Site or any part thereof in violation of this Agreement and fail to cure such breach within the cure period provided in Section 8.2 above.

Such right to reenter, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid or limit:

(a) Any mortgage or deed of trust or other security interest permitted by this Agreement; or

(b) Any rights or interests provided in this Agreement for the protection of the holders of such mortgages or deeds of trust or other security interest.

The Grant Deed shall contain appropriate reference and provision to give effect to the Agency's right as set forth in this Section 8.10, under specified circumstances prior to recordation of a Certificate of Completion with respect to the affected portion of the Site, to reenter and take possession of that portion of the Site, with all improvements thereon, and to terminate and revest in the Agency the estate conveyed to the Developer.

Upon the revesting in the Agency of title to the Site as provided in this Section 8.10, the Agency shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Site as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law, to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Improvements, or such other Improvements in their stead as shall be satisfactory to the Agency. Upon such resale of the Site, the proceeds thereof, after repayment of any mortgage or deed of trust or other security interests encumbering the Site which are permitted by this Agreement, shall be applied:

1. First, to reimburse the Agency for all costs and expenses incurred by the Agency, including, but not limited to, any expenditures by the Agency or the City in connection with the recapture, management and resale of the Site or part thereof (but less any income derived by the Agency from the Site or part thereof in connection with such management); all taxes, assessments and water or sewer charges with respect to the Site or part thereof which the Developer has not paid (or, in the event the Site is exempt from taxation or assessment of such charges during the period of ownership thereof by the Agency, an amount equal to such taxes, assessments, or charges as would have been payable if the Site were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Site or part thereof at the time of revesting of title thereto in the Agency, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Site, or part thereof; and any amounts

otherwise owing the Agency, and in the event additional proceeds are thereafter available; then

2. Second, to pay the Developer; (i) the amount equal to the unreimbursed third party costs incurred by Developer for the development or the financing of the improvements to the portion of the Site acquired by Agency, less (ii) any gains or income withdrawn or made by the Developer from such portion of the Site or the improvements thereon. In addition, the sums otherwise due under the Development Costs Loan will be forgiven, as a form of further reimbursement.

Any balance remaining after such reimbursements shall be retained by the Agency as its property.

The rights established in this Section 8.10 are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein or now or hereafter existing at law or in equity. These rights are to be interpreted in light of the fact that the Agency will have conveyed the Site to the Developer for redevelopment purposes, and not for speculation in undeveloped land.

ARTICLE 9. GENERAL PROVISIONS.

9.1 Notices, Demands and Communications Between the Parties.

Formal notices, demands and communications between the Agency and Developer shall be deemed sufficiently given if delivered to the principal offices of the Agency or the Developer, as applicable, by (i) personal service or (ii) express mail, federal express, or other like overnight mail or courier service, (iii) registered or certified mail, postage prepaid, return receipt requested, or (iv) facsimile (provided that any notice delivered by facsimile is followed by a separate notice sent within twenty-four (24) hours after the transmission by facsimile delivered in one of the other manners specified above). Such notice shall be addressed:

If to Agency: Redevelopment Agency of the City of Moorpark
799 Moorpark Avenue
Moorpark, California 93021
Attn: Executive Director
Telephone No.: (805) 517-6212
Facsimile No.: (805) 532-2528

If to Developer: Area Housing Authority of Ventura County

with a copy to:

with a copy to:

Any such notices shall be deemed received upon the earlier of actual receipt, one (1) business day following delivery to the courier service, or forty-eight (48) hours after deposit in the mail, as required hereinabove; (provided that any notice received on Saturday, Sunday, or a state or national holiday, or received after 5:00 p.m. on any business day shall be deemed received on the next business day thereafter). The person and the place to which notices are to be mailed may be changed by either Party by notice to the other in accordance with this Section.

9.2 Conflict of Interest.

No member, official or employee of the Agency or City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law.

9.3 Developer's Covenants, Representations and Warranties.

Developer covenants, represents and warrants to Agency as follows:

9.3.1 Warranty Against Payment of Consideration for Agreement.

Developer has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than the normal cost of conducting business and the costs of professional services such as architects, engineers, attorneys, and brokers' commissions payable in connection with the construction and sale of the Improvements on the Site.

9.3.2 Organization and Standing of Developer.

Developer is an independent non-profit agency organized under the Federal Fair Housing Law ("The Fair Housing Amendments Act of 1988") and is in good standing under the laws of the State of California. Developer has all requisite power and authority to enter into and perform its obligations under this Agreement.

9.3.3 Authorization and Consents.

The execution, delivery and performance of this Agreement is consistent with Developer's articles of organization and operating agreement and has been duly authorized by all necessary action of Developer's members and managers. All consents, approvals and authorizations of all applicable governmental authorities, other than Agency/City, and all consents or approvals of Developer's members and managers required in connection with the execution and delivery by Developer of this Agreement will have been obtained on or before the Effective Date of this Agreement.

9.3.4 Due and Valid Execution.

This Agreement 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 Developer.

9.3.5 Tax Returns and Reports.

All filings, reports and tax returns of Developer which are required to be made or filed with any governmental authority with respect to the Site have been duly made and filed, and all taxes, assessments, fees and other governmental charges upon Developer or upon the Site related to this Project, which are due and payable by Developer, have been paid, other than those which are presently payable without penalty or interest, or which Developer is in good faith contesting.

9.3.6 Litigation and Compliance.

To the best of Developer's knowledge, there are no suits, other proceedings or investigations pending or threatened against, or affecting the business or the properties of Developer or any of its members which could materially impair its ability to perform its obligations under this Agreement, nor is Developer or any of its members in violation of any laws or ordinances which could materially impair Developer's ability to perform its obligations under this Agreement.

9.3.7 Default.

To the best of Developer's knowledge, there are no facts now in existence which would, with the giving of notice or the lapse of time, or both, constitute a "Default" hereunder, as described in Section 8.1.

9.3.8 Notice From Governing Jurisdiction.

To the best of Developer's knowledge, Developer has not received any notice from any governing jurisdiction of any violation of laws and ordinances with respect to the Site.

9.3.9 Adverse Conditions, Etc.

To the best of Developer's knowledge, there is no adverse condition or circumstance, pending or threatened litigation, governmental action, or other condition which could prevent or materially impair Developer's ability to develop the Site as contemplated by the terms of this Agreement.

9.3.10 Reversion Clause

Developer agrees to utilize the Site in accordance with this Agreement for the Life of the Project. If, for any reason, the Site is not utilized as the Project as fully described in this Agreement, by the Developer, Partnership or any subsequent owner, the Site shall immediately revert to the ownership of the City. This reversion covenant shall be recorded on the grant deed prior to conveyance of the Site from the City to the Agency and surviving this Agreement.

9.4 Agency's Covenants, Representations and Warranties.

Agency covenants, represents and warrants to Developer as follows:

9.4.1 Authority.

Agency is a public body, corporate and politic, existing pursuant to the California Community Redevelopment Law (California Health and Safety Code Section 33000), which has been authorized to transact business pursuant to action of the City. Agency has the full right, power and authority to sell and convey the Site and undertake all obligations as provided herein. The execution, delivery and performance of this Agreement by the Agency has been fully authorized by all requisite actions on behalf of the Agency.

9.4.2 FIRPTA.

Agency is not a "foreign person" within the parameters of FIRPTA or any similar state statute, or is exempt from the provisions of FIRPTA or any similar state statute, or Agency has complied and will comply with all applicable requirements under FIRPTA or any similar state statute.

9.4.3 No Conflict.

To the best of Agency's knowledge, Agency's execution, delivery and performance of this Agreement will not constitute a default or a breach under any contract, agreement or order to which Agency is a party or by which it is bound, and no joinder, consent of waiver of or by any third party is necessary to permit the consummation by Agency of the transaction contemplated by this Agreement.

9.4.4 Litigation.

There are no lawsuits or other proceedings filed or, to the best of Agency's knowledge, threatened with respect to the ownership, operation or environmental condition of the Site or any part thereof (including disputes with mortgagees, governmental authorities, utility companies, contractors, adjoining landowners or suppliers of goods and services) or with respect to the title to or proposed development of the Site which could adversely affect Agency's performance hereunder.

9.4.5 Violation.

To the best of Agency's knowledge, there are no outstanding violations of any health, safety, pollution, zoning or other laws, ordinances, rules or regulations with respect to the Site which have not heretofore been entirely corrected. In the event Agency hereafter acquires actual knowledge of any such violations, Agency shall promptly provide Developer with copies of all documents evidencing such violation and, if such violation was caused by Agency, or any person or entity acting on its behalf, Agency shall cure such violation prior to the Close of Escrow. To the best of Agency's knowledge, based on reasonable inquiry, no Hazardous Materials have been or are located in, on, under or adjacent to the Site or any portion thereof.

9.4.6 No Commitments.

The Agency has not made, and, without the approval of the Developer, will not make, any commitments to any governmental authorities, utility company, school board, church or other religious body, or any homeowner or homeowner's association, or to any other organization, group or individual relating to the Site which would impose any obligation on the Developer, or its successors or assigns, after the Conveyance to make any contributions of money, dedications of land or grant of easements or rights of way, or to construct, install or maintain any improvements of a public or private nature on or off the Site.

9.4.7 No Agency Bankruptcy.

Agency is not the subject of a bankruptcy proceeding.

9.4.8 No Other Agreements.

To the best of Agency's knowledge, no other person has claimed title to, possession of or right to use the Site or any right thereto not disclosed in the Title Commitment. Agency has not entered into any lease or other agreement for possession or sale with any person or entity (except Developer) pursuant to which such person or entity has any interest or future right or interest to occupancy, possession or use of all or any portion of the Site, except as disclosed in the Due Diligence Materials and the Title Commitment.

9.4.9 Delivery of Due Diligence Materials.

All Due Diligence Materials required by this Agreement to be delivered to Developer have been so delivered. To the best of Agency's knowledge, all Due Diligence Materials delivered by Agency to Developer are complete and accurate and do not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements or facts contained therein not misleading.

9.4.10 No Conveyance.

Agency will not convey any interest in the Site, and Agency will not cause or consent to the recordation against the Site of any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters after the date of this Agreement which will not be eliminated prior to the Close of Escrow.

9.4.11 No Alterations.

Except as otherwise permitted by this Agreement, Agency will not make or allow any material alterations to the Site unless required by law without Developer's prior written consent, which consent may be withheld in Developer's sole and absolute discretion. The Site shall be delivered by Agency to Developer in the As Is Condition.

9.4.12 Payment for Work; Assurance of Funding.

As of the Closing, Agency will have paid for all work performed by third parties on or in connection with the Site on behalf or at the direction of Agency or its agents or representatives, including all labor, goods, materials and services related thereto, and the Site will not be subject to encumbrance by any mechanics, laborer, materialmen or other like liens with respect thereto. Agency hereby represents and warrants to Developer that it has and will continue to have sufficient funds in Agency's low and moderate income housing account to fully fund Agency's obligations hereunder, including payment of the Agency Assistance when and as required.

9.4.13 Compliance With Laws; Indemnity; Waiver. The Developer shall construct the Improvements in conformity with all applicable Governmental Requirements, including all applicable state labor laws and standards, all applicable Public Contract Code requirements, the City's applicable zoning and development standards, building, plumbing, mechanical and electrical codes, all other applicable provisions of the City's Municipal Code; and all applicable disabled and handicapped access requirements, including 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., and the Unruh Civil Rights Act, Civil Code Section 51, et seq. The Developer warrants and represents in connection with the foregoing that the Developer is a sophisticated, experienced developer of projects similar to the Project and is fully conversant with, and informed, concerning the Governmental Requirements with which the Developer must comply pursuant to this Section.

The Developer shall defend, indemnify and hold harmless the Agency, the City and their respective elected officials, officers, employees, agents and representatives from and against any and all present and future liabilities, obligations, orders, claims, damages, fines, penalties and expenses (including attorneys' fees and costs) (collectively, "Claims"), arising out of or in any way connected with the Developer's obligation to comply with all Governmental Requirements with respect to the development and construction of the Improvements, including all applicable state labor laws and standards and the Public Contract Code, except to the extent such Claims result from actions of the Agency or the City, or their respective elected officials, officers, employees, agents or representatives, which prevent the Developer from complying with Governmental Requirements. If, at any time, the Developer believes that the Agency or the City, or their respective elected officials, officers, employees, agents or representatives, are preventing the Developer from complying with Governmental Requirements, then the Developer shall provide notice to the Agency of the basis of such conclusion by the Developer to enable the Agency and/or the City to take such actions as may be necessary or appropriate to enable the Developer to comply with Governmental Requirements.

9.5 Liability Insurance.

Prior to any entry upon the Site, Developer shall obtain and shall thereafter at all times maintain, at its sole expense, commercial general liability insurance as described in Section 5.5.2.

9.6 Incorporation of Attachments.

All Attachments referred to in this Agreement are hereby incorporated herein by such reference and made a part hereof.

9.7 Context and Construction.

When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. Whenever the word "day" or "days" is used herein, such shall refer to calendar day or days, unless otherwise specifically provided herein. Whenever a reference is made herein to a particular Section of this Agreement, it shall mean and include all subsections and subparts thereof. If the date for performance of any action required by this Agreement falls on a weekend or State of California or national holiday, the date for performance of that action shall be extended to the next business day.

9.8 No Obligation to Third Parties.

This Agreement shall not be deemed to confer any rights upon, nor obligate either of the Parties to this Agreement to, any person or entity not a Party to this Agreement, except that (i) with respect to a lender owning or holding a mortgage encumbering the Site which is authorized by this Agreement, such lender shall be entitled to the benefit of the lender protection rights included herein expressly for its benefit, and (ii) with respect to the estoppel certificate provisions set forth in Section 9.19 below, the third parties described therein shall be entitled to rely upon the provisions expressly provided for their benefit in that Section.

9.9 Counterparts; Facsimile Signatures.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties specifically agree that facsimile signatures on this Agreement shall be legally binding and that each Party is entitled and authorized to rely on the facsimile signature of the other hereon as if it were an original signature.

9.10 Amendments in Writing.

The provisions of this Agreement may not be amended or altered except by a written instrument fully executed by each of the Parties hereto.

9.11 Further Acts.

Each of the Parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the Parties and carry out the terms of this Agreement.

9.12 Severability.

Should any part, term, portion or provision of this Agreement, or the application thereof to any person or circumstance be held to be illegal, invalid or in conflict with any Applicable Governmental Restrictions, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and the same shall remain enforceable and valid to the fullest extent permitted by law.

9.13 Waiver.

The waiver by either Party of the breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach whether of the same or another provision of this Agreement.

9.14 Authority.

Each person executing this Agreement on behalf of Developer or Agency hereby represents and warrants (i) such person's authority to do so, (ii) that such authority has been duly and validly conferred by that entity's governing body or board, and (iii) that said entity has full right and authority to enter into this Agreement.

9.15 Enforced Delay; Extension of Times for Performance.

In the event that any of the Parties to this Agreement are prevented from proceeding with any of their obligations under this Agreement by reason of events that are beyond that Party's reasonable control, such as supernatural causes, strikes, lockouts, earthquake, war, insurrection, riots, floods, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, unusually severe weather, delays or inaction of independent contractors, delays caused by a shortage of materials or skilled labor due to circumstances beyond Developer's control, delays caused by actions or omissions of the Agency or any other public or governmental entity (provided that acts or omissions of the Agency shall not excuse performance by the Agency), delays in the issuance of any governmental approvals or authorizations, litigation brought against the Site or a Party without that Party's consent, including a land use or entitlement challenge, remediation of Hazardous Materials located upon the Site, unanticipated conditions of construction, or similar events which are beyond that Party's reasonable control, then that Party shall be entitled to an additional grace period or extension of time in which to perform the obligations whose performance is precluded by such event. The extension of time for any cause permitted under this Section 9.15 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 that Developer has notified Agency in writing of such cause within ten (10) days of the commencement. Notwithstanding

the foregoing, Developer's inability to secure satisfactory financing shall not entitle Developer to an extension of time to perform.

9.16 Record of Extensions; Effect of Extension on Schedule of Performance.

Any Party is also entitled, as often as reasonably required, to request in writing that any other Party confirm the then applicable deadlines for performance of each Party's obligations or the exercise of each Party's rights under this Agreement, and each Party shall, within twenty (20) days after receipt of such a written request, respond thereto.

9.17 Administrative Extensions; Approval of Items.

The Agency Executive Director is authorized to approve extensions of time hereunder provided that:

- (i) such extension is in writing and is signed by the Agency Executive Director and Developer; and
- (ii) no extension of time granted under this Section that results in the completion date for the Project being extended by more than twelve (12) months beyond the date established by the other provisions of this Agreement shall be granted without a formal amendment hereto duly approved by the Agency Board and Developer.

This Agreement shall be administered by Agency's Executive Director, or his designated representative, following approval of this Agreement by Agency. The Executive Director (or his authorized representative) shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of Agency so long as such actions do not substantially change the uses or development permitted on the Site, or substantially add to the costs of Agency as specified herein as agreed to by the Agency Board. Without limitation of the foregoing, the Agency Executive Director is authorized to provide any of the approvals required by Sections 2.3, 6.1.3, 6.2.2 or 6.2.3

9.18 Statement of Compliance.

Within ten (10) days following receipt of any written request which either Agency or Developer may make from time to time, the other Party shall execute and deliver to the requesting Party a statement or estoppel certificate certifying that: (1) this Agreement is unmodified and in full force and effect, if such be the case, or, if there have been modifications hereto, that this Agreement is in full force and effect, as modified, and stating the date and nature of such modifications; (2) to the knowledge of the certifying Party, there are no current Defaults under this Agreement or specifying the dates and nature of any such Defaults; and (3) any other reasonable information requested. The Executive Director is hereby authorized to execute any certificate requested by Developer under this Section.

9.19 Approvals.

Except as otherwise provided herein and except with respect to matters that are required to be presented to the Agency Board for decision or that the Executive Director elects to take to the Agency Board for decision, the time within which Agency or Developer has to respond to a request for any consent or approval under this Agreement shall be fifteen (15) business days following receipt of the other party's written request and all materials required by this Agreement or otherwise reasonably requested by the party receiving such request in order to enable it to act thereon. With respect to any such additional matters that the party receiving such request may reasonably require, such party shall notify the other party of such request within five (5) business days of its receipt of the request for consent or approval. In the event of any disapproval, the party receiving such request shall, concurrently with the delivery of notice of such disapproval, inform the other party in writing of the reasons for disapproval and, if applicable, the conditions upon which the party receiving such request may approve such request. The provisions of this Section shall not apply to consents or approvals under any provisions of this Agreement that expressly set forth the procedure for submission and processing of any requests for approval (and the specific timeframes applicable thereto), as those Sections already specify the procedure to obtain another party's consent or approval with respect to such item. Except as otherwise expressly provided herein, any consent or approval provided for by this Agreement shall not be unreasonably withheld, conditioned or delayed by the party providing that consent or approval.

9.20 Naming of Project

Developer acknowledges the Agency Board shall have sole discretion for naming the Project. Developer also agrees not to change the name of the Project without written approval from the Agency Board.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Agency:

REDEVELOPMENT AGENCY OF THE CITY
OF MOORPARK, a public body corporate and
politic

By: _____
Its: Chairperson

ATTEST:

Agency Secretary

APPROVED AS TO FORM:

Attorneys for the Redevelopment
Agency of the City of Moorpark

DEVELOPER:

By:

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

ATTACHMENT NO. 1

SITE MAP

ATTACHMENT NO. 2

SITE LEGAL DESCRIPTION

ATTACHMENT NO. 3
SCHEDULE OF PERFORMANCE

- 1. Submission of Disposition and Development Agreement.** Developer shall submit to the Agency a copy of the Disposition and Development Agreement duly executed by the Developer. On or before _____, 2009
- 2. Agency Approval of Disposition and Development Agreement.** Agency shall approve or disapprove the Disposition and Development Agreement. Within 30 days after Developer's submission to the Agency of an executed Disposition and Development Agreement.
- 3. Submission of Construction Drawings for Improvements.** Developer shall submit to the City complete Construction Drawings for the Improvements. Within 30 days after City Council approval of the proposed Design Development Application.
- 4. Developer and City Response.** Developer shall respond to all requests by the City for additional information and/or revisions to plans. Developer will respond to any request within 30 days. City will respond to any submission within 30 days.
- 6. Development Services Review of Construction Drawings.** The City Community Development Department shall review the Construction Drawings for the improvements. Within 30 days after submittal.
- 7. Revisions of Construction Drawings by Developer.** Developer shall prepare revised Drawings for the Construction Improvements as necessary, and resubmit them to the Community Development Department for review. Within 30 days after receipt of Community Development Department comments.
- 9. Final Review of Complete Construction Drawings.** The City Community Development Department shall approve or disapprove the revisions submitted by Developer for the improvements, and the Developer shall be ready to obtain grading and building Within 10 days after submittal by Developer.

permits, provided that the revisions necessary to accommodate the Department's comments have been made.

10. **Opening of Escrow for Site.** The Agency shall open Escrow with Escrow Agent. Within 30 days after execution of Agreement.

11. **Conditions Precedent to Closing.** Developer and Agency shall satisfy (or waive) all of their respective Conditions Precedent to Closing. Not later than 30 days prior to scheduled date of escrow closing.

12. **Close of Escrow.** Agency shall convey Site to the Developer. As soon as possible after the Satisfaction of all Conditions Precedent to the Closing has occurred (within 30 days thereafter).

13. **Commencement of Construction of Improvements.** Developer shall commence grading of the Site and construction of the Improvements. Within 30 days following Closing.

14. **Completion of Construction of Improvements.** Developer shall complete construction of the Improvements. Within 12 months following commencement of construction of the Improvements.

NOTE: All days are calendar days in this Schedule of Performance. All days failing on a weekend or day on which the City offices are not open shall be extended to the next day on which City offices are open. This Schedule of Performance may be amended written by mutual consent of the parties to the Agreement.

ATTACHMENT NO. 4

OFFICIAL BUSINESS

Document entitled to free
Recording per Government
Code Sections 6103 and 27383

Recording Requested by,
Mail Tax Statements to,
and When Recorded Mail to:

SPACE ABOVE THIS LINE
FOR RECORDER'S USE

Documentary Transfer Tax: \$ _____
Based on full value of property conveyed

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged,

The **REDEVELOPMENT AGENCY of the CITY OF MOORPARK**, a public body, corporate and politic (the "Agency"), acting to carry out the Redevelopment Plan ("Redevelopment Plan") for the Moorpark Redevelopment Project (the "Project"), under the Community Redevelopment Law of California, as of _____, 200___, hereby grants to the **AREA HOUSING AUTHORITY OF THE COUNTY OF VENTURA, ("AHA")**, a public body corporate and politic and duly organized by the law and existing under the laws of the State of California ("Developer"), the real property hereinafter referred to as the "Site", described in Exhibit A attached hereto and incorporated herein, subject to the existing easements, restrictions and covenants of record described there.

1. Agency excepts and reserves from the conveyance herein described all interest of the Agency in oil, gas, hydrocarbon substances and minerals of every kind and character lying more than five hundred (500) feet below the surface, together with the right to drill into, through, and to use and occupy all parts of the Site lying more than five hundred (500) feet below the surface thereof for any and all purposes incidental to the exploration for and production of oil, gas, hydrocarbon substances or minerals from said Site or other lands, but without, however, any right to use either the surface of the Site or any portion thereof within five hundred (500) feet of the surface for any purpose or purposes whatsoever, or to use the Site in such a manner as to create a disturbance to the use or enjoyment of the Site.

2. Agency excepts and reserves from the conveyance herein described all interest of the Agency in air space above Thirty-Five (35) above the surface (the "Air Space").

3. The Site is conveyed in accordance with and subject to the Redevelopment Plan which was approved and adopted by Ordinance No. 110 of the City Council of the City of Moorpark, and a Disposition and Development Agreement entered into between

Agency and Developer dated _____ 200__ (the "DDA"), a copy of which is on file with the Agency at its offices as a public record and which is incorporated herein by reference. The DDA generally requires the Developer to construct a 20 unit, 100% affordable, residential apartment building having a mixture of one, two and three bedroom units, ranging in size from 870 -1100 square feet ("Improvements"). The Improvements consists of fourteen 2-bedroom units and six 3-bedroom units with six different floor plans. Each unit includes one bathroom and a private balcony or deck ranging from 89 to 128 square feet. Additionally, each unit includes an assigned private storage cabinet inside of a semi-subterranean garage.

All of the units would be affordable to and rented by very-low and low-income households. Of the 20 units, 14 will be restricted to lease at an affordable housing cost to low income households, 5 will be restricted to lease at an affordable housing cost to very low income households, and 1 unit will be utilized by an onsite manager, which is considered a low income unit under the DDA.

The Improvements includes a number of common amenities, including an outdoor roof deck, a ground level courtyard, community room, computer lab and common laundry room. An elevator provides access from the semi-subterranean garage to the first and second floors.

The City, AHA and Santa Barbara Housing Assistance Corporation ("Partnership") have entered into a Partnership Agreement dated June 9, 2009, for the purpose of financing and developing the Improvements. It is the intent of the City and AHA to have the Site transferred to the Agency so that it may be transferred to the AHA through a Disposition and Development Agreement and ultimately sold or leased to the Partnership for constructing the Improvements. The Partnership will be dissolved after the Improvements are complete and AHA will maintain 100% ownership of the property subject to reversion to City in the event the site is not used for affordable housing pursuant to the approved Residential Planned Development Permit No. 2009-01. If the Partnership does not dissolve, the ownership of the Project would be 99.8% City, .1% AHA and .1% Santa Barbara Housing Assistance Corporation.

All terms used herein shall have the same meaning as those used in the DDA.

4. The Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof, that upon the date of this Grant Deed and during construction and thereafter, the Developer shall devote the Site to the uses specified in the Residential Planned Development Permit No. 2009-01 and the DDA for the periods of time specified therein. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall conform to the Residential Planned Development Permit No. 2009-01, the DDA and all applicable provisions of the Moorpark Municipal Code. The foregoing covenants shall run with the land.

5. The Developer 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 race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the Developer 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, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land.

6. The Agency has the right, at its election, to reenter and take possession of the Site, with all improvements thereon, and terminate and revest in the Agency the estate conveyed to the Developer if after the Closing and prior to the issuance of the Release of Construction Covenants, if the Developer (or its successors in interest) shall:

- a. abandon or substantially suspend construction of the Improvements required by the DDA for a period of thirty (30) days after written notice thereof from the Agency subject to the provisions of Section 602; or
- b. contrary to the provisions of the DDA transfer or suffer any involuntary transfer of the Site or any part thereof in violation of the DDA.

Such right to reenter, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid or limit:

1. Any mortgage or deed of trust permitted by the DDA; or
2. Any rights or interests provided in the DDA for the protection of the holders of such mortgages or deeds of trust.

Upon the revesting in the Agency of title to the Site as provided in the DDA, the Agency shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Site as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law, as it exists or may be amended, to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Improvements, or such improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for such Site as provided in the City's zoning ordinance. Upon such resale of the Site, the net proceeds thereof after repayment of any mortgage or deed of trust encumbering the Site which is permitted by this Agreement shall be applied to reimburse the Agency, on its own behalf or on behalf of the City, all costs and expenses incurred by the Agency, excluding City and Agency staff costs, but specifically, including, but not limited to, any expenditures by the Agency or the City in connection with the recapture, management and resale of the Site or part thereof (but less any income derived by the Agency from the Site or part thereof in connection with such management); all taxes, assessments and water or sewer charges with respect to the Site or part thereof which the Developer has not paid (or, in the event that Site is exempt from taxation or assessment of such charges during the period of ownership thereof by the Agency, an amount, if paid, equal to such taxes, assessments, or charges as would have been payable if the Site were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Site or part thereof at the time or revesting of title thereto in the Agency, or to discharge or prevent from attaching or

being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Site, or part thereof; and any amounts otherwise owing the Agency, and in the event additional proceeds are thereafter available, then any balance remaining after such reimbursements shall be retained by the Agency as its property. The rights established in this Section 6 are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein or now or hereafter existing at law or in equity. These rights are to be interpreted in light of the fact that the Agency will have conveyed the Site to the Developer for redevelopment purposes, particularly for development of the Improvements, and not for speculation in undeveloped land.

7. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest permitted by paragraph 5 of this Grant Deed; provided, however, that any subsequent owner of the Site shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

8. Developer agrees to utilize the Site in accordance with DDA for the life of the Project. If, for any reason, the Site is not utilized as the Project as fully described in the DDA, by the Developer, Partnership or any subsequent owner, the Site shall immediately revert to the ownership of the City. This reversion covenant shall be recorded on the grant deed prior to conveyance of the Site from the City to the Agency and shall remain in effect in perpetuity.

9. All covenants contained in this Grant Deed shall be covenants running with the land for the periods set forth therefore in the DDA. Every covenant contained in this Grant Deed against discrimination contained in paragraph 5 of this Grant Deed shall remain in effect in perpetuity.

10. All covenants without regard to technical classification or designation shall be binding for the benefit of the Agency, and such covenants shall run in favor of the Agency for the entire period during which such covenants shall be in force and effect, without regard to whether the Agency is or remains an owner of any land or interest therein to which such covenants relate. The Agency, in the event of any breach of any such covenants, shall have the right to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

11. Both Agency, its successors and assigns, and Developer and the successors and assigns of Developer in and to all or any part of the fee title to the Site shall have the right with the mutual consent of the Agency to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements or restrictions contained in this Grant Deed without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Site. However, Developer and

Agency are obligated to give written notice to and obtain the consent of any first mortgagee prior to consent or agreement between the parties concerning such changes to this Grant Deed. The covenants contained in this Grant Deed, without regard to technical classification, shall not benefit or be enforceable by any owner of any other real property, or any person or entity having any interest in any other such realty. Any amendment to the Moorpark Municipal Code which proposes to change the uses or development permitted on the Site, or otherwise proposes a change of any of the restrictions or controls that apply to the Site, shall require the written consent of the first mortgagee and the Developer or the successors and assigns of Developer in and to all or any part of the fee title to the Site, but any such amendment which proposes a change affecting the Site shall not require the consent of any tenant, lessee, easement holder, licensee, mortgagee (other than the first mortgagee), trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Site.

AGENCY:
REDEVELOPMENT AGENCY of the
CITY OF MOORPARK,
a public body, corporate and politic

By: _____

ATTEST:

By: _____
Deborah S. Traffenstedt, Agency Secretary

EXHIBIT "A"

LEGAL DESCRIPTION OF SITE

STATE OF CALIFORNIA

)

) ss.

COUNTY OF _____

)

On _____, before me, _____, Notary Public,

(Print Name of Notary Public)

personally appeared _____

personally known to me

-or

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are

subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

STATE OF CALIFORNIA

)

) ss.

COUNTY OF _____

)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

personally known to me

-or

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are

subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Of Notary

(REPLACE WITH STANDARD AGENCY ATTEST FORMAT)

ATTACHMENT NO. 5 SCOPE OF DEVELOPMENT

The Developer shall construct a 20 unit, 100% affordable, residential project having a mixture of one, two and three bedroom units, ranging in size from 870 -1100 square feet ("Improvements"). The Improvements consists of fourteen 2-bedroom units and six 3-bedroom units with six different floor plans. Each unit includes one bathroom and a private balcony or deck ranging from 89 to 128 square feet. Additionally, each unit includes an assigned private storage cabinet inside of a semi-subterranean garage.

All of the units would be affordable to and rented by very-low and low-income households. Of the 20 units, 14 will be restricted to lease at an affordable housing cost to low income households, 5 will be restricted to lease at an affordable housing cost to very low income households, and 1 unit will be utilized by an onsite manager, which is considered a low income unit under the DDA.

The Improvements includes a number of common amenities, including an outdoor roof deck, a ground level courtyard, community room, computer lab and common laundry room. An elevator provides access from the semi-subterranean garage to the first and second floors.

All development of the Improvements shall be in accordance with approved City of Moorpark Residential Planned Development Permit No. 2009-01 and all permits and fees required by the City, County of Ventura and other governmental agencies with jurisdiction over the Improvements, including the State General Construction Storm Water Permit's Storm Water Pollution Prevention Plan requirements and any other requirements therein.

ATTACHMENT NO.6

OFFICIAL BUSINESS

Document entitled to free
Recording per Government
Code Sections 6103 and 27383

Recording Requested by,
Mail Tax Statements to,
and When Recorded Mail to:

SPACE ABOVE THIS LINE
FOR RECORDER'S USE

CERTIFICATE OF COMPLETION

THIS CERTIFICATE OF COMPLETION (the "Certificate") is made as of _____ 200__ by the REDEVELOPMENT AGENCY of the CITY OF MOORPARK, a public body corporate and politic (the "Agency"), in favor of AREA HOUSING AUTHORITY OF THE COUNTY OF VENTURA, ("AHA"), a public body corporate and politic and duly organized by the law and existing under the laws of the State of California (the "Developer"), as of the date set forth below.

RECITALS

A. The Agency and the Developer have entered into that certain Disposition and Development Agreement (the "DDA") dated _____, 200__, concerning the redevelopment of certain real property situated in the City of Moorpark, California as more fully described in Exhibit "A" attached hereto and made a part hereof.

B. As referenced in Section 6.12 of the DDA, the Agency is required to furnish the Developer or its successors with a Certificate upon completion of construction of the Improvements, which Certificate is required to be in such form as to permit it to be recorded in the Recorder's office of Ventura County. This Certificate is conclusive determination of satisfactory completion of the construction and development required by the DDA.

C. The Agency has conclusively determined that such construction and development has been satisfactorily completed.

NOW, THEREFORE, the Agency hereby certifies as follows:

1. The Improvements to be constructed by the Developer have been fully and satisfactorily completed in conformance with the DDA. Any operating requirements and all use, maintenance or nondiscrimination covenants contained in the DDA shall remain in effect and enforceable according to their terms.

2. Nothing contained in this instrument shall modify in any other way any other provisions of the DDA.

3. This Certificate is not a notice of completion as referred to in Section 3093 of the California Civil Code.

4. This Certificate shall inure to the benefit of Developer, its successors and assigns.

IN WITNESS WHEREOF, the Agency has executed this Release as of the date set forth above.

AGENCY:
REDEVELOPMENT AGENCY of the
CITY OF MOORPARK,
a public body, corporate and politic

By: _____

ATTEST:

By: _____

Deborah S. Traffenstedt, Agency Secretary

EXHIBIT "A"
LEGAL DESCRIPTION

STATE OF CALIFORNIA

)

) ss.

COUNTY OF _____

)

On _____, before me, _____, Notary Public,

(Print Name of Notary Public)

personally appeared _____

personally known to me

-or

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are

subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

(REPLACE WITH STANDARD PUBLIC AGENCY ACKNOWLEDGMENT)

ATTACHMENT NO. 7

**AFFORDABLE HOUSING AGREEMENT
AND
AFFORDABLE HOUSING IMPLEMENTATION
AND
RENTAL RESTRICTION PLAN**

[BEHIND THIS PAGE]

OFFICIAL BUSINESS
Document entitled to free
recording per Government Code
Sections 6103 and 27383

Recording Requested By:-
THE CITY OF MOORPARK
799 Moorpark Avenue
Moorpark, California 93021
Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AFFORDABLE HOUSING AGREEMENT

By and Between

**REDEVELOPMENT AGENCY OF THE
CITY OF MOORPARK, CALIFORNIA**

and

AREA HOUSING AUTHORITY OF THE COUNTY OF VENTURA

Dated as of _____, 2009

AFFORDABLE HOUSING AGREEMENT

THIS AFFORDABLE HOUSING AGREEMENT (this "Agreement") is to be effective as of _____, 2009, regardless of the date of actual execution hereof, and is by and between REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK, a public body, corporate and politic ("Agency") and AREA HOUSING AUTHORITY OF THE COUNTY OF VENTURA, a public body, corporate and politic ("Owner").

WITNESSETH:

RECITALS

WHEREAS, the Agency and Owner have previously entered into a Disposition and Development Agreement dated _____, recorded as Instrument No. _____ in the Official Records of the County of Ventura on _____ (the "DDA") pursuant to which Owner will construct a residential development consisting of 20 apartments (the "Project") on approximately .9 acres (the "Property"), described more specifically on Exhibit "1" attached hereto and incorporated herein by reference, which is located within the City of Moorpark; and

WHEREAS, the Property and the Project are located within the City of Moorpark Redevelopment Project Area, adopted by the City Council of the City of Moorpark under the provisions of the California Community Redevelopment Law (California Health & Safety Code Sections 33000 et seq.); and

WHEREAS, pursuant to the provisions of California Health & Safety Code Section 33413(b)(2) (the "Inclusionary Housing Requirement"), not less than fifteen percent (15%) of all new or substantially rehabilitated dwelling units which are developed within a redevelopment project area by an entity other than a redevelopment agency, are required to be available at Affordable Housing Cost to persons and families of low or moderate income, and not less than forty percent (40%) of the dwelling units required to be available at Affordable Housing Cost to persons and families of low or moderate income are to be available at Affordable Rent to very low income households; and

WHEREAS, to assist in the production of affordable housing, on July 15, 2009, the City approved Residential Planned Development Permit No. 2009-01 ("RPD"), which included a density bonus for the project. The RPD will be referred to herein as the "Project Approvals".

WHEREAS, any regulatory agreement executed and recorded in conjunction with the issuance of Low Income Housing Tax Credits for this project shall be subordinate in lien priority to this Agreement and the Affordable Housing Implementation and Rental Restriction Plan, regardless of date(s) of recordation; and

WHEREAS, notwithstanding any other provision of this Agreement, this Agreement shall not diminish or affect the rights of any First Lender, and the provisions of this Agreement shall be subordinate to the lien of any First Mortgage and shall not impair the rights of the First Lender or such lenders' assignee or successor-in-interest (including but not limited to any government agency insuring such First Mortgage) to exercise its remedies under a First Mortgage in the event of default under the First Mortgage by the Owner or to exercise its remedies. Such remedies under the First Mortgage include, but are not limited to, the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure.

WHEREAS, in consideration for a density bonus obtained through the Project Approvals that is greater than would otherwise be available, as a condition of Project Approvals, Owner has agreed to rent or lease or hold available for rent or occupancy one hundred percent (100%) of the twenty (20) units to persons or households of Very, Very Low, Very Low or Low Income, all at an Affordable Housing Cost (Affordable Rent), all as defined herein, and to enter into an Affordable Housing Agreement with the City, which agreement shall incorporate the Affordable Housing Implementation and Rental Restriction Plan (as defined herein) by which such dwelling units (the "Affordable Units") will be restricted for the life of the Project, to set forth the method of selecting eligible tenants, tenant eligibility requirements, the respective roles of the City and Owner and any other items determined necessary by the City; and

WHEREAS, Owner hereby agrees to enter into certain additional restrictions upon the ownership and operation of the Project, which will bind the Project and Owner, its successors and assigns, for the life of the Project (the "Affordable Housing Implementation and Rental Restriction Plan"). The purpose of the Affordable Housing Agreement and the Affordable Housing Implementation and Rental Restriction Plan (the "Plan") is to create such conditions, covenants, restrictions, liens, servitudes, and charges upon and subject to which the Project and each and every part and portion thereof shall be occupied, leased and rented. The provisions of the Affordable Housing Implementation and Rental Restriction Plan shall run for its term and shall apply to and bind any successors-in-interest of Owner. Each of the provisions thereof are imposed upon the Project as mutual and reciprocal equitable servitudes in favor of each and every other portion of the Project. The Affordable Housing Implementation and Rental Restriction Plan is incorporated herein by this reference; and

WHEREAS, Owner shall pay an annual fee to Agency of Five Thousand Dollars (\$5,000.00) to administer the affordability provisions and other requirements of the Affordable Housing Agreement (the "Affordable Housing Administration Fee".) This fee shall be paid on or before February 1 of each year commencing after the first residential occupancy for the Project and adjusted annually commencing July 1, 2008, by the larger increase of (a) or (b) below:

- (a) The CPI increase shall be determined by using the information provided by the U. S. Department of Labor Statistics, for all urban consumers within the Los Angeles/Riverside/Orange County metropolitan area during the

prior year. The calculation shall be made using the month of October over the prior October.

- (b) The annual percentage amount paid to City by the Local Agency Investment Fund (LAIF) calculated as follows: The sum of the quarterly effective yield amounts paid by LAIF for the City's Pooled Money Investment Account for the most recent four (4) calendar quarters divided by four (4); and

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency and the Owner hereby agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions. Capitalized terms used herein shall have the following meanings unless the context in which they are used clearly requires otherwise.

"Affordable Housing Cost" shall mean rent plus a reasonable utility allowance that does not exceed the following ("Affordable Rent"):

- (A) For a Very Low Income household, the product of thirty percent (30%) times fifty percent (50%) of the County Median Income adjusted for family size appropriate for the Unit.
- (B) For a Low Income household, the product of thirty percent (30%) times sixty percent (60%) of the County Median Income adjusted for family size appropriate for the Unit.

"Affordable Units" shall mean the 20 rent-restricted units described in this Affordable Housing Agreement and as described in the Affordable Housing Implementation and Rental Restriction Plan.

"Agreement" shall mean the Affordable Housing Agreement, which is this instrument, running to the benefit of the Redevelopment Agency of the City of Moorpark, restricting the Project apartment units to Very Low and Low Income households as set forth herein at an Affordable Housing Cost.

"Agency" shall mean the Redevelopment Agency of the City of Moorpark, California, a municipal corporation.

"County" shall mean Ventura County.

"County Median Income" shall mean the Median Income adjusted by actual household size as published annually by the Department of Housing and Community Development (HCD) of the State of California for the County, which Median Income

levels shall be adjusted concurrently with publication of adjustment of the same by HCD.

“First Lender” shall mean the beneficiary of a First Mortgage, and its successors and assigns.

“First Mortgage” shall mean the deed of trust and other security instruments securing a First Mortgage Loan.

“First Mortgage Loan” shall mean a first priority deed of trust loan.

“Life of the Project” shall mean the time the Site is used for the Project in accordance with this Agreement and City approved RPD. If the Project no longer complies with this Agreement and City approved RPD, the revision provision in Section 2.4 will revert the Site back to the City.

“Low Income” or “Lower Income” shall mean a household income that does not exceed eighty percent (80%) of the County Median Income, adjusted for household size appropriate to the Unit. The household income amount for Lower Income households shall be based on the amount published by HCD as the Household Income Limits for Ventura County (“HCD Income Limits”) or such successor information in the event the referenced published information is no longer available.

“Low Income Household” or “Lower Income Household” or “Low Income Tenant” means individuals or households qualified on the basis of a “certification of tenant eligibility” as certified by such individual or household, who have a gross income which does not exceed Low Income, adjusted for household size.

“Owner” shall mean Area Housing Authority of the County of Ventura and any permitted assignee of its rights, powers and responsibilities, or any successor in interest to fee title to the Project or Property.

“Plan” shall mean the instrument running to the benefit of the Agency, restricting the rental units of this project to Very Low, and Low Income Households at an Affordable Rent, in the form of the Affordable Housing Implementation and Rental Restriction Plan which is attached to this Agreement as Exhibit No.2 and incorporated herein by this reference.

“Project” is the residential development consisting of 20 apartments located on the Property, together with structures, improvements, equipment, fixtures, and other personal property owned by the Owner and located on or used in connection with all such improvements and all functionally related and subordinate facilities.

“Property” shall mean that real property in the City of Moorpark, California described as set forth in the Legal Description attached to this Agreement as Exhibit “1”.

“Term” shall mean the longest feasible time, which includes, but is not limited to, the Life of the Project, but not less than fifty-five (55) years, commencing upon the recordation of this Agreement. If Project ceases to operate as an affordable housing apartment complex, then Site will be subject to reversion clause in Section 2.4.

“Units” shall mean residential dwelling units.

“Utility Allowance” shall mean the utility allowance set forth in the chart attached to the Plan as Exhibit “D”.

“Very Low Income” shall mean household income that does not exceed fifty percent (50%) of the County Median Income, adjusted for household size appropriate to the Unit. The household income amount for Very Low Income households shall be based on the amount published by HCD as the Household Income Limits for Ventura County (“HCD Income Limits”) or such successor information in the event the referenced published information is no longer available.

“Very Low Income Household” or “Very Low Income Tenant” means individuals or households qualified on the basis of a “certification of tenant eligibility” as certified by such individual or household, who have a gross income which does not exceed Very Low Income, adjusted for household size.

1.2 Rules of Construction.

1.2.1 The singular form of any word used herein, including the terms defined herein shall include the plural and vice versa. The use herein of a word of any gender shall include correlative words of all genders.

1.2.2 Unless otherwise specified, references to Articles, Sections, and other Subdivisions of this Agreement are to the designated Articles, Sections, and other Subdivisions of this Agreement as originally executed. The words “hereof,” “herein,” “hereunder,” and words of similar import shall refer to this Agreement as a whole.

1.2.3 All of the terms and provisions hereof shall be construed to effectuate the purposes set forth in this Agreement and to sustain the validity hereof.

1.2.4 Headings or titles of the several articles and sections hereof and the table of contents appended to copies hereof shall be solely for convenience of reference and shall not affect the meaning, construction, or effect of the provisions hereof.

ARTICLE 2 AFFORDABLE HOUSING IMPLEMENTATION AND RENTAL RESTRICTION PLAN AND USE OF PROPERTY

2.1 Purpose of Restrictions. The Agency is required pursuant to the Project Approvals and California Health and Safety Code Section 33413(b) to impose certain income and affordability restrictions on a specified number of Units in the Project. The

provisions of the Affordable Housing Implementation and Rental Restriction Plan ("Plan") are intended to carry out those requirements, including the provision of fifteen (15) units at Very Low Income, and five (5) units at Low Income for the life of the Project.

2.2 Agreement to be Recorded. Owner represents, warrants, and covenants that it will cause this Agreement, including the Plan which is attached hereto and incorporated herein by this reference, to be recorded in the Office of the County Recorder of Ventura County, California, and that this Agreement shall be senior in priority to any lien, encumbrance or other matter of record except as approved by Agency. The Owner shall pay all fees and charges in connection with any such recordation.

2.3 Use of the Property. Owner represents, warrants, and covenants to operate the Project and Property as an affordable multifamily residential rental property and uses incidental thereto and for no other purposes. Owner further agrees not to convert the Project to any type of common interest development, for-sale condominiums, community apartments, planned development, stock cooperative, hotel, motel, or any type of congregate care or assisted living facility for the life of the Project. Owner agrees it shall not knowingly rent any Unit for a period of less than thirty (30) days.

2.4 Reversion Clause. Owner agrees to utilize the Site in accordance with this Agreement for the Life of the Project. If, for any reason, the Site is not utilized as the Project as fully described in this Agreement, by the Owner, Partnership or any subsequent owner, the Site shall immediately revert to the ownership of the City. This reversion covenant shall be recorded on the grant deed prior to conveyance of the Site from the City to the Agency and surviving this Agreement.

2.5 Rules. In addition to the conditions and restrictions to be contained in leases or rental agreements as provided in this Agreement, ongoing operation of the Project will be subject to reasonable house rules, policies and regulations issued from time to time by Owner ("Rules"). Owner shall submit its Rules to Agency during the Initial Rent-Up. From time to time thereafter, Owner shall submit any amendments, modifications or changes to such Rules to the Agency at least thirty (30) days prior to their effective date to permit the Agency to comment. In addition, Owner shall submit to the Agency on an annual basis a certification that the Rules previously submitted to Agency, as amended, remain in effect. (If applicable, any Extended Use Agreement entered into between Owner and the California Tax Credit Allocation Committee shall be consistent with this Agreement.)

ARTICLE 3 TERM

3.1 Term of Agreement. This Agreement shall remain in full force and effect for the Term, unless earlier terminated in accordance with this Agreement.

3.2 Termination. Notwithstanding Section 3.1 above, this Agreement shall terminate: (a) upon mutual agreement of the parties; or (b) in the event of damage or destruction of the Project for which there are insufficient insurance proceeds to rebuild the Project to its condition prior to the damage or destruction and none of the Project Units are occupied as determined by the City's Building Official.

ARTICLE 4 DEFAULT; REMEDIES

4.1 An Event of Default. Each of the following shall constitute an "Event of Default" by the Owner hereunder:

4.1.1 Failure by the Owner to duly perform, comply with and observe in any material respect the conditions of Project approval, conditions, terms, or covenants of the Development Agreement or this Agreement, if such failure remains uncured thirty (30) days after written notice of such failure from the Agency to the Owner in the manner provided herein or, with respect to a default that cannot be cured within thirty (30) days, if the Owner fails to commence such cure within such thirty (30) day period or thereafter fails to diligently and continuously proceed with such cure to completion. In no event shall the Agency be precluded from exercising remedies if an Event of Default is not cured within ninety (90) days after the first notice of default is given, subject to Section 5.6. If a different period or notice requirement is specified under any other section of this Agreement, then the specific provision shall control.

4.1.2 Any representation or warranty contained in this Agreement or in any application, financial statement, certificate, or report submitted to the Agency by Owner proves to have been incorrect in any material respect when made, if such failure remains uncured thirty (30) days after written notice of such failure from Agency to Owner in the manner provided herein or, with respect to a default that cannot be cured within thirty (30) days, if the Owner fails to commence such cure within such thirty (30) day period or thereafter fails to diligently and continuously proceed with such cure to completion

4.1.3 A court having jurisdiction shall have made or rendered a decree or order (a) adjudging Owner to be bankrupt or insolvent; (b) approving as properly filed a petition seeking reorganization of Owner or seeking any arrangement on behalf of the Owner under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or of any state or other jurisdiction; (c) appointing a receiver, trustee, liquidator, or assignee of the Owner in bankruptcy or insolvency or for any of its properties; or (d) directing the winding up or liquidation of the Owner, providing, however, that any such decree or order described in any of the foregoing subsections shall have continued unstayed or undischarged for a period of ninety (90) days.

4.1.4 The Owner shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment or execution on any substantial part of its property, unless the property so assigned, sequestered, attached, or executed upon shall have been returned or released within ninety (90) days after such event (unless a lesser time period is permitted for cure hereunder) or prior to sale pursuant to

such sequestration, attachment, or execution. If the Owner is diligently working to obtain a return or release of the property and the Agency's interest hereunder is not imminently threatened in the Agency's reasonable business judgment, then the Agency shall not declare a default under this subsection.

4.1.5 The Owner shall have voluntarily suspended its business or dissolved and a subsequent Owner has not assumed the Owner's obligations in accordance with this Agreement.

4.1.6 Should there occur any default declared by any lender under any loan document or deed of trust relating to any loan made in connection with the Project or Property, which loan is secured by a deed of trust or other instrument of record.

4.2 Liens.

4.2.1 This Agreement shall be senior in priority to any lien or encumbrance on the Property (other than the Development Agreement) and all liens and encumbrances shall be subordinate and subject to this Agreement, regardless of actual date of recordation.

4.2.2 Owner shall pay and promptly discharge when due, at Owner's cost and expense, all liens, encumbrances and charges upon the Project or the Property, or any part thereof or interest therein (except the lien of any mortgage, deed of trust or other recorded instrument securing any construction or permanent financing for the Project, which shall, in any event, be junior and subordinate to this Agreement), provided that the existence of any mechanic's, laborer's, materialman's, supplier's, or vendor's lien or right thereto shall not constitute a violation of this Section if payment is not yet due under the contract which is the foundation thereof and if such contract does not postpone payment for more than forty-five (45) days after the performance thereof. Owner shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided that within ten days after service of a stop notice or ninety days after recording of a mechanic's lien, Owner shall deposit with Agency a bond or other security reasonably satisfactory to Agency in such amounts as Agency shall reasonably require, but no more than the amount required to release the lien under California law and provided further that Owner shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. Owner shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged, and shall, in any event, cause such lien, encumbrance or charge to be removed or discharged not later than sixty (60) days prior to any foreclosure sale. If Owner shall fail either to remove and discharge any such lien, encumbrance or charge or to deposit security in accordance with the preceding sentence, if applicable, then, in addition to any other right or remedy of Agency, Agency may, but shall not be obligated to, discharge the same, without inquiring into the validity of such lien, encumbrance or charge nor into the existence of any defense or offset thereto, either by paying the amount claimed to be due, or by procuring the discharge of such lien, encumbrance or charge by depositing in a court a bond or the amount or otherwise giving security for

such claim, in such manner as is or may be prescribed by law. Owner shall, immediately upon demand thereof by Agency, pay to Agency an amount equal to all costs and expenses incurred by Agency in connection with the exercise by Agency of the foregoing right to discharge any such lien, encumbrance or charge. To the extent not paid, all costs and expenses paid by the Agency shall be a lien on the Property pursuant to Civil Code Section 2881.

4.3 Costs of Enforcement. If any Event of Default occurs, and is continuing, Agency may employ an attorney or attorneys to protect its rights hereunder. Subject to California Civil Code Section 1717, the non-prevailing party promises to pay to the prevailing party, on demand, the fees and expenses of such attorneys and all other costs of enforcing the obligations secured hereby including without limitation, recording fees, receiver's fees and expenses, and all other expenses of whatever kind or nature, incurred by the prevailing party in connection with the enforcement of this Agreement, whether or not such enforcement includes the filing of a lawsuit.

4.4 Enforcement of this Agreement. Upon the occurrence of any Event of Default by Owner until such Event of Default is cured by Owner in accordance with Section 4.1, Agency shall be entitled to enforce performance of any obligation of Owner arising under this Agreement and to exercise all rights and powers under this Agreement or any law now or hereafter in force. No remedy herein conferred upon or reserved to Agency is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by this Agreement to the Agency may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Agency, and the Agency may pursue inconsistent remedies.

4.4.1 The Agency shall have the right to mandamus or other suit, action or proceeding at law or in equity to require the Owner to perform its obligations and covenants under this Agreement and the Plan or to enjoin acts or things which may be unlawful or in violation of the provisions hereof.

4.5 Right of Contest. The Owner shall have the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute an Event of Default hereunder. Any such contest shall be prosecuted diligently and in a manner unprejudicial to the Agency or the rights of the Agency hereunder.

ARTICLE 5 GENERAL PROVISIONS

5.1 Notice. All notices (other than telephone notices), certificates or other communications (other than telephone communications) required or permitted hereunder shall be sufficiently given and should be deemed given when personally delivered or when sent by telegram, or when sent by facsimile transmission (if properly confirmed in writing), or forty-eight (48) hours following mailing by registered or certified mail, postage prepaid, or twenty-four hours following transmission of such notice by express mail, Federal Express or similar carriers, addressed as follows:

If to the Agency:

The Redevelopment Agency of the City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
Attention: Executive Director

If to the Owner:

Area Housing Authority of the County of Ventura
Attention: Douglas Tapking
1400 West Hillcrest Drive
Newbury Park, CA 91320

5.2 Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the Agency and the Owner or the Owner's agents, employees or contractors, and the Owner shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement for the operation of the Project. The Owner has and hereby retains the right to exercise full control of employment, direction, compensation and discharge of all persons assisting in the performance of services hereunder. In regards to the on-site operation of the Project, the Owner shall be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding and all other laws and regulations governing such matters. The Owner agrees to be solely responsible for its own acts and those of its agents and employees.

5.3 No Claims. Nothing contained in this Agreement shall create or justify any claim against the Agency by any person the Owner may have employed or with whom the Owner may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the operation of the Project or the Property.

5.4 Conflict of Interests. No member, official or employee of the Agency shall make any decision relating to this 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.

5.5 Limitation of Liability.

5.5.1 No member, official, employee, agent or attorney of the Agency shall be personally liable to the Owner, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to the Owner or

successor or on any obligation under the terms of this Agreement. No member, official, employee, attorney, partner or consultant of the Owner shall be personally liable to Agency, or any successor in interest, in the event of any default or breach by Owner or for any amount which may become due to Agency or its successor, or on any obligations under the terms of this Agreement or Development Agreement.

5.5.2 Notwithstanding any other provision or obligation to the contrary contained in this Agreement, (i) the liability of Owner under this Agreement to any person or entity, including, but not limited to, Agency and its successors and assigns, is limited to Owner's interest in the Project and the Property, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Agreement or any other agreement securing the obligations of Owner, under this Agreement, (ii) from and after the date of this Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Agreement), shall be rendered against Owner, the assets of Owner (other than the Owner's interest in the Project, and this Agreement), in any action or proceeding arising out of this Agreement.

5.6 Force Majeure. Whenever Owner is required to perform an act under this Agreement by a certain time, said time shall be deemed extended so as to take into account events of force majeure. As used herein "force majeure" shall mean a delay in Owner's performance hereunder due to acts of God, fire, earthquake, flood, extreme weather conditions, explosions, war, invasion, insurrection, riot, mob violence, sabotage, acts of terrorism, vandalism, malicious mischief, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, third party litigation, condemnation, requisition, governmental restrictions including, without limitation, inability or delay in obtaining government consents or permits, laws or orders of governmental, civil, military or naval authorities, other than the Agency, or any other cause, whether similar or dissimilar to the foregoing, not within Owner's control, other than lack of or inability to procure monies to fulfill its commitments or obligations under this Agreement.

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

5.8 Hold Harmless. Except as such claims may arise from negligence, fraud or willful misconduct by the Agency or anyone for whose actions Agency is legally liable, if any person or entity performing work for the Owner on the Project or the Property shall assert any claim against the Agency on account of any damage alleged to have been caused by reason of acts of negligence of the Owner, the Owner shall defend at its own expense any suit based upon such claim; and if any judgment or claims against the Agency shall be allowed, the Owner shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith. Nothing herein stated shall be

interpreted as a prohibition against the Owner seeking indemnification (either contractually or as a matter of law) from any third person or entity.

In addition, the Owner shall defend and indemnify the Agency (with counsel approved by the Agency) against any claims or litigation of any nature whatsoever brought by third parties and directly or indirectly arising from the Owner's failure to perform its obligations under this Agreement, and in the event of settlement, compromise or judgment hold the Agency free and harmless therefrom, except to the extent such claims may arise from negligence, fraud or willful misconduct by Agency or anyone for whose actions Agency is legally liable.

5.9 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement or the Plan, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party. No waiver of any default or breach by the Owner hereunder shall be implied from any omission by the Agency to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by the Agency to or of any act by the Owner requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Agreement or the Plan, nor shall it invalidate any act done pursuant to notice of default, or prejudice the Agency in the exercise of any right, power, or remedy hereunder.

5.10 Action at Law. The Agency may take whatever action at law or in equity as may be necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the Owner under this Agreement or the Plan. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of such right or power, but any such right or power may be exercised from time to time and as often as Agency may deem expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Agreement or the Plan, it shall not be necessary to give any notice, other than such notice as may be herein expressly required or required by law to be given.

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

5.12 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the party prevailing in any such action shall be entitled to recover against the party not prevailing all reasonable attorneys' fees and costs incurred in such action (including, without limitation, all reasonable legal fees incurred in any appeal or in any action to enforce any resulting judgment).

5.13 Binding Upon Successors. This Agreement, and the exhibits attached hereto, shall run with the land and be binding upon and inure to the benefit of the heirs, administrators, executors and assigns of each of the parties, and successors in interest of fee title to the Project and the Property. Any reference in this Agreement to an Owner shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired a fee interest in the Project or Property.

5.14 Effect and Duration. Owner covenants and agrees for itself, its heirs, its administrators, its executors, its successors, its assigns and every successor in interest to fee title of the Project, the Property or any part thereof, that the Owner and such heirs, administrators, executors, successors, assigns and successors in interest shall comply with all of the terms, provisions, easements, conditions, covenants, restrictions, liens, and servitudes set forth in this Agreement.

5.15 Transfer. Owner shall provide the Agency with prior written notice of any sale or transfer of the Project or the Property. Subject to this Section 5.15, upon the sale or transfer of all of the Owner's interest in the Project and the Property, that Owner shall be released from its obligations under this Agreement arising on or before the effective date of the sale or transfer, provided that the Owner prior to the sale or transfer delivers to Agency a written assignment and assumption agreement substantially in the form of Exhibit "3" attached hereto (the "Assignment and Assumption Agreement"), duly executed by the purchaser or transferee and notarized by a notary public, whereby the purchaser or transferee expressly assumes the obligations of Owner under this Agreement and the Plan. Failure to provide a written Assignment and Assumption Agreement hereunder shall not negate, modify or otherwise affect the liability of the purchaser or transferee pursuant to this Agreement. Nothing contained herein shall be deemed to grant to the Agency discretion to approve or deny any such sale or transfer; provided, that no Owner shall be released from its obligations under this Agreement until the duly executed Assignment and Assumption Agreement has been delivered to and executed by the Agency. Notwithstanding anything in this Section 5.15 to the contrary, no Owner shall be released from its obligations under this Agreement if, at the time of the sale or transfer of the Project or the Property, there is an uncured Event of Default as set forth in Section 4.1 hereof.

Such Assignment and Assumption Agreement shall incorporate any relevant provisions of Section 2.2.3.3 of the Affordable Housing Implementation and Rental Restriction Plan, as necessary, in Agency's sole judgment.

5.16 Time of the Essence. In all matters under this Agreement, time is of the essence.

5.17 Agency Approval. Any approvals required under this Agreement shall not be unreasonably withheld or delayed.

5.18 Complete Understanding of the Parties. The DDA, the Project Approvals, this Agreement and the other attached Exhibits hereto constitute the entire understanding and agreement of the parties with respect to the matters described herein. In the event of any conflict between this Agreement, the Project Approvals, and the Development Agreement the terms of this Agreement shall take precedence over the terms of the Project Approvals.

5.19 Construction and Interpretation of Agreement. The parties hereto acknowledge and agree that this Agreement has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has reviewed this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, notwithstanding Civil Code Section 1654, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

5.20 Controlling Law; Venue. This Agreement shall be deemed to be entered into in California and shall be controlled and interpreted by the internal laws of California, without regard to conflict of law provisions, except to the extent federal law applies. Venue for any action brought under this Agreement will be in the Superior Court for the County of Ventura, California or in the United States District Court for the Central District of California. Owner hereby accepts for itself and in respect to its property, generally and unconditionally, the non-exclusive jurisdiction of the foregoing courts. Owner irrevocably consents to the service of process in any action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to Owner at its address for notices pursuant to this Agreement. Nothing contained herein shall affect the right of the Agency to serve process in any other manner permitted by law.

5.21 Hazardous Materials.

5.21.1 Definitions. The following special definitions shall apply for the purposes of this Section:

(a) "Hazardous Materials" shall mean:

- (1) any "hazardous substance" as defined in Section 101(14) of CERCLA (42 U.S.C. Section 9601(14)) or Section 25281(d) or 25316 of the California Health and Safety Code at such time;

(2) any "hazardous water," "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;

(3) 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 1521 et seq.), Safe Drinking Water Act (42 U.S.C. Section 3000 (f) et seq.), Clean Air Act (42 U.S.C. Section 7401 et seq.), California Health and Safety Code (Section 25100 et seq., Section 3900 et seq.), or California Water Code (Section 1300 et seq.) at such time; and

(4) 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 Project or the Property.

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

5.21.2 Certain Covenants and Agreements. The Owner hereby agrees that:

(a) The Owner shall not knowingly permit the Project, the Property 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 Project or the Property. For the purposes of this Section only, the term "Hazardous Materials" shall not include (1) construction materials, gardening materials, household products, office supply products, or janitorial supply products customarily used in the construction, maintenance, or management of residential developments or associated buildings and grounds, or typically used in residential activities, in a manner typical of other residential developments which are comparable to the Project; or (2) certain substances which may contain chemicals listed by the State of California pursuant to Health and Safety Code Section 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Project, including (without limitation) alcoholic beverages, aspirin, tobacco products, and saccharine.

(b) The Owner shall keep and maintain the Project and the Property and each portion thereof in compliance with, and shall not cause or permit the Project, the Property or any portion thereof to be in violation of, any Hazardous Materials Laws.

(c) Upon receiving actual knowledge of the same the Owner shall immediately advise the Agency in writing of: (1) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against the Owner or the Project or the Property pursuant to any applicable Hazardous Materials Laws; (2) any and all claims made or threatened by any third party against the Owner or the Project or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in the foregoing clause (1) and this clause (2) are hereinafter referred to as "Hazardous Materials Claims"); (3) the presence of any Hazardous Materials in, on or under the Project or the Property; or (4) the Owner's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Project classified as "borderzone property" under the provisions of California Health and Safety Code, Section 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Project or the Property under any Hazardous Materials Laws.

5.21.3 Indemnity. Owner hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably approved by the Agency) the Agency, and its Agency Board members, officers, employees, contractors, agents and attorneys from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith, including, but not limited to, reasonable attorneys' fees and expenses (collectively, a "Loss"), arising directly or indirectly, in whole or in part, out of (1) the failure of the Owner or any other person or entity occupying or present on the Project or Property 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 Project or the Property; (2) the presence in, on or under the Project or the Property of any Hazardous Materials or any releases or discharges of any Hazardous Materials into, on, under or from the Project or the Property; or (3) any activity carried on or undertaken on the Project or the Property during Owner's ownership of the Property, whether by the Owner or any employees, agents, contractors or subcontractors of the Owner, or any third persons at any time occupying or present on the Project or the Property, in connection with the handling, treatment, removal, storage, decontamination, cleanup, transport or disposal of any Hazardous Materials at any time located or present on or under the Project or the Property. The foregoing indemnity shall further apply to any residual contamination on or under the Project or the Property, or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials on, under, or from the Project or the Property, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws. However, the foregoing indemnity shall not extend to the portion of any Loss arising from the gross negligence, fraud or willful misconduct of the Agency or anyone for whose actions the Agency is legally liable. This Section shall survive termination of this Agreement.

5.21.4 No Limitation. The Owner hereby acknowledges and agrees that the Owner's duties, obligations and liabilities under this Agreement, including without limitation, under Section 5.21 above, are in no way limited or otherwise affected by any information the Agency may have concerning the Project or the Property and/or the presence within the Project or the Property of any Hazardous Materials, whether the Agency obtained such information from the Owner or from its own investigations.

5.22 Insurance Requirements.

5.22.1 Required Coverage. The Owner shall maintain and keep in force, at the Owner's sole cost and expense, the following insurance applicable to the Project and the Property, provided, however, that a Contractor's liability policy may be used in lieu of Owner's policy during construction provided it complies with all terms and conditions of this Section 5.22:

(a) Comprehensive general liability insurance with limits not less than two million dollars (\$2,000,000) for each occurrence, combined single limit for bodily injury and property damage, including coverages for contractual liability, personal injury, broad form property damage, products and completed operations. The policy limits shall be adjusted by the aggregate percentage change in the Consumer Price Index from the date of recordation of this Agreement, calculated every five (5) years, beginning on the fifth anniversary date of the recordation of this Agreement.

(b) Worker's compensation insurance, fidelity bonds and/or such other insurance coverage which is ordinarily and customarily maintained on like kind and sized apartment projects within the Agency.

(c) A policy or policies of insurance against loss or damage to the Project resulting from fire, windstorm, hail, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage casualty insurance policies. In addition, if Owner carries coverage voluntarily for additional causes (such as earthquake, riot, civil commotion or other), such coverage shall be treated in all respects as the policy or policies required to be kept under this paragraph (d) for so long as Owner continues to voluntarily carry such coverage. All insurance hereunder, except earthquake insurance, shall be maintained in an amount not less than one hundred percent (100%) of the Full Insurable Value of the Project as defined below (such value to include amounts spent for construction of the Project, architectural and engineering fees, and inspection and supervision). "Full Insurable Value of the Project" shall mean the actual replacement cost excluding the cost of excavation, foundation and footings below the ground level of the Project. To ascertain the amount of coverage required, Owner shall cause the Full Insurable Value to be determined from time to time, but in no event less often than once each five (5) years, by appraisal by the insurer or by any appraiser mutually acceptable to Agency and Owner; except that no such appraisals shall be required if the policy is written on a "replacement cost" basis.

5.22.2 General Requirements. The insurance required by this Section shall be provided under an occurrence form, and the Owner shall maintain such

coverage continuously so long as this Agreement is in force. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be one and one-half times the occurrence limits specified above. All policies shall be with an insurance carrier licensed and admitted to do business in California and rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a "Best's Rating" of "A" and a "Financial Size Category" of at least "VII" or if such ratings are not then in effect, the equivalent thereof.

5.22.3 Additional Insured. The Agency shall be named as an additional insured on the general liability insurance covering the Project and the Property with an endorsement form as approved by the City Clerk. Comprehensive general liability policies shall also be endorsed to name as additional insureds the Agency, and its Agency Board members, officers, agents and employees. All policies shall be endorsed to provide thirty (30) days prior written notice of cancellation, reduction in coverage, or intent not to renew to the address established for notices to the Agency pursuant to Section 5.1 of this Agreement.

5.22.4 Certificates of Insurance. Upon the Agency's request at any time during the Term of this Agreement, the Owner shall provide certificates of insurance, in form and with insurers reasonably acceptable to the Agency, evidencing compliance with the requirements of this Section, and shall provide complete copies of such insurance policies, including a separate endorsement approved by the City Clerk, as indicated in Section 5.22.3, naming the Agency as an additional insured.

5.23 Burden and Benefit. Agency and the Owner hereby declare their understanding and intent of the burden of the covenants set forth herein touching and concerning the Project and the Property, in that Owner's legal interest in the Project and the Property is rendered less valuable thereby. Agency and Owner hereby declare their understanding and intent that the covenants, reservations, and restrictions set forth herein directly benefit the land (a) by enhancing and increasing the enjoyment and use of the Project and the Property by Very Low and Low Income Households, (b) by providing certainty to the Owner regarding the development of the Property pursuant to the Project Approvals, and (c) by furthering the public purposes advanced by the Redevelopment Plan for the City of Moorpark Redevelopment Project Area.

5.24 Amendments. Changes and modifications to this Agreement shall be made only upon the written mutual consent of the Parties. However, no changes shall be made to this Agreement which would adversely affect any bonds issued under this Project without the written consent of all appropriate parties with respect to any bond issuance.

5.25 No Third Party Beneficiaries. This Agreement shall not benefit or be enforceable by any person, or firm, or corporation, public or private, except the Agency and the Owner and their respective successors and assigns. The Redevelopment

Agency of the City of Moorpark, acting pursuant to State law, shall have the right, power and authority to enforce this Agreement in its own name and in the name of the City, and shall be the beneficiary of all rights of the City in this Agreement.

5.26 Counterparts. This Agreement may be executed in counterparts, which together will be one agreement.

WHEREFORE, the parties have executed this Agreement as of the date first-above written.

REDEVELOPMENT AGENCY OF
THE CITY OF MOORPARK

By: _____
Name:
Title:

AREA HOUSING AUTHORITY
OF THE COUNTY OF VENTURA

By: _____
Name:
Title:

By: _____
(to be named)

By:

By: _____

EXHIBIT NO. 1
TO AFFORDABLE HOUSING AGREEMENT

LEGAL DESCRIPTION

THE LAND REFERRED TO IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF VENTURA, AND IS DESCRIBED AS FOLLOWS:

EXHIBIT NO. 2
TO
AFFORDABLE HOUSING AGREEMENT

AFFORDABLE HOUSING IMPLEMENTATION
AND RENTAL RESTRICTION PLAN

(BEHIND THIS PAGE)

CITY OF MOORPARK

AFFORDABLE HOUSING

IMPLEMENTATION

AND RENTAL RESTRICTION PLAN

EXHIBITS

- Exhibit A Legal Description
- Exhibit B Certification of Tenant Eligibility
- Exhibit C Certificate of Continuing Program Compliance
for the [Month/Quarter] Ending _____
- Exhibit D Type of Unit, Number of Units, Household
Size Adjustment and Utility Allowance

**AFFORDABLE HOUSING IMPLEMENTATION
AND RENTAL RESTRICTION PLAN
(AREA HOUSING AUTHORITY
CHARLES STREET APARTMENTS)
Moorpark, California 93021**

INTRODUCTION

THE REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK, hereinafter called "Agency," acting to carry out its public purposes to assist Very Low, and Low Income persons and families to obtain housing at affordable housing cost, entered into a Disposition and Development Agreement dated XX, 2009, recorded as Instrument No. 2007-XX in the Official Records of the County of Ventura on XX(the "DDA") with the AREA HOUSING AUTHORITY OF THE COUNTY OF VENTURA (hereinafter referred to as "Owner"), for the construction of a residential development consisting of 20 apartments located in the City of Moorpark (the "Project"), on that certain real property described on the attached Exhibit "A" and incorporated herein by this reference (the "Property"). The purpose of this Plan is to set forth such conditions, restrictions and requirements upon which the Project and each and every part and portion thereof shall be occupied, leased and rented. The provisions of this Affordable Housing Implementation and Rental Restriction Plan (the "Plan") are intended to apply to the Project for the Term of the Plan and the provisions of this Plan shall be incorporated and be a part of an Affordable Housing Agreement between Owner and Agency.

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions. Capitalized terms used herein shall have the following meanings unless the context in which they are used clearly requires otherwise.

"Affordable Housing Agreement" (the "Agreement") shall mean that certain Affordable Housing Agreement to be entered into between Owner and the Agency to which this Plan is attached as Exhibit 2.

"Affordable Rent" shall mean rent plus a reasonable utility allowance that does not exceed the following:

- (A) For a Very Low Income household, the product of thirty percent (30%) times fifty percent (50%) of the County Median Income adjusted for family size appropriate for the Unit.

- (B) For a Low Income household, the product of thirty percent (30%) times sixty percent (60%) of the County Median Income adjusted for family size appropriate for the Unit.

“Affordable Units” shall mean the twenty (20) rent-restricted units for Very Low and Low Income households, as provided herein.

“Agency” shall mean the Redevelopment Agency of the City of Moorpark, California, a municipal corporation.

“Consumer Price Index” shall mean the Consumer Price Index--All Urban Consumers for Los Angeles/Orange/Riverside metropolitan area, as published from time to time by the United States Department of Labor or, in the event such index is no longer published or otherwise available, such replacement index as may be agreed upon by Owner and Agency. All calculations relating to the Consumer Price Index shall be made using the month of October.

“County” shall mean Ventura County.

“County Median Income” shall mean the Median Income adjusted by actual household size as published annually by the Department of Housing and Community Development (HCD) of the State of California for the County, which Median Income levels shall be adjusted concurrently with publication of adjustment of the same by HCD.

“Density Bonus” shall mean the density bonus granted by the City to Owner in connection with the Project pursuant to Residential Planned Development Permit No. 2009-01 (“RPD”) that was approved by the City on July 15, 2009, (hereinafter referred to as the “Project Approvals”), under which authority the Owner must construct a residential development consisting of 20 apartments, of which at one hundred percent (100%) (i.e., 20 units) are made available at an Affordable Rent for Very Low Income households (i.e., 50% of County Median Income) and Low Income Households (i.e. 80% of County Median Income).

“Disposition and Development Agreement” shall mean that certain DDA dated XX, recorded as Instrument No. XX in the Official Records of the County of Ventura on XX, which was adopted by the Agency Board on XXXXXX, 2009.

“HCD” shall mean the Department of Housing and Community Development (HCD) of the State of California.

“Initial Rent-Up” shall mean the period between the issuance of a certificate of occupancy for the first residential unit and “Stabilization” (as defined below).

"Life of the Project" shall mean the time the Site is used for the Project in accordance with this Agreement and City approved RPD. If the Project no longer complies with this Agreement and City approved RPD, the revision provision in Section 2.4 of the Affordable Housing Agreement and Section 5.2.2 of this Plan.

"Low Income" or "Lower Income" shall mean a household income that does not exceed eighty percent (80%) of the County Median Income, based on household size appropriate for the unit. The household income amount for Lower Income households shall be based on the amount published by HCD as the Household Income Limits for Ventura County ("HCD Income Limits") or such successor information in the event the referenced published information is no longer available."

"Low Income Household" or "Lower Income Household" or "Low Income Tenant" or "Lower Income Tenant" shall mean individuals or households whose gross income does not exceed Low Income, adjusted for household size.

"Owner" shall mean Area Housing Authority of the County of Ventura, and any permitted assignee of its rights, powers and responsibilities, or any successor in interest to fee title to the Project or Property.

"Plan" shall mean this Affordable Housing Implementation and Rental Restriction Plan.

"Project" is the residential development consisting of 20 apartments located on the Property, together with structures, improvements, equipment, fixtures, and other personal property owned by the Owner and located on or used in connection with all such improvements and all functionally related and subordinate facilities.

"Property" shall mean that real property in the City of Moorpark, California described as set forth in the Legal Description attached to this Plan as Exhibit "A".

"Stabilization" shall mean the time at which the Project achieves ninety percent (90%) occupancy for ninety (90) consecutive days.

"Term" shall mean the longest feasible time, which includes, but is not limited to, the life of the Project, but not less than fifty-five (55) years, commencing upon the date of recordation of the Affordable Housing Agreement. If Project ceases to operate as an affordable housing apartment complex, then Site will be subject to reversion clause in Section 2.4 of the Affordable Housing Agreement and 5.2.2 of this Plan.

"Unit Allocation" shall mean the allocation of the Affordable Units as set forth in greater detail in Section 2.2.1 and "Exhibit "D".

"Units" shall mean the residential apartment units in the Project.

“Utility Allowance” shall mean the utility allowance set forth in the chart attached to this Plan as Exhibit “D”.

“Very Low Income” shall mean a household income that does not exceed fifty percent (50%) of the County Median Income, adjusted for household size appropriate to the Unit. The household income amount for Very Low Income households shall be based on the amount published by HCD as the Household Income Limits for Ventura County (“HCD Income Limits”) or such successor information in the event the referenced published information is no longer available.

“Very Low Income Tenant” or “Very Low Income Household” shall mean individuals or households qualified on the basis of a “certification of tenant eligibility” as certified by such individual or household, who have a gross income which does not exceed Very Low Income, adjusted for household size.

1.2 Rules of Construction.

1.2.1 The singular form of any word used herein, including the terms defined herein shall include the plural and vice versa. The use herein of a word of any gender shall include correlative words of all genders.

1.2.2 Unless otherwise specified, references to Articles, Sections, and other Subdivisions of this Plan are to the designated Articles, Sections, and other Subdivisions of this Plan as originally executed. The words “hereof,” “herein,” “hereunder,” and words of similar import shall refer to this Plan as a whole.

1.2.3 All of the terms and provisions hereof shall be construed to effectuate the purposes set forth in this Plan and to sustain the validity hereof.

1.2.4 Headings or titles of the several articles and sections hereof and the table of contents appended to copies hereof shall be solely for convenience of reference and shall not affect the meaning, construction, or effect of the provisions hereof.

ARTICLE 2 RENTAL RESTRICTIONS

2.1 Purpose of Restrictions. The Agency is required pursuant to the Project Approvals and California Health and Safety Code Section 33413(b) to impose certain income and affordability restrictions on a specified number of Units in the Project. The provisions of this Plan are intended to carry out those requirements. Specifically, this Plan provides for the availability of twenty (20) affordable units, all at affordable rent and occupancy as follows: fifteen (15) that are affordable to Very Low Income households; and five (5) that are affordable to Low Income households. One of

the units will be occupied by an on-site management employee of the owner as required by Tax Credit regulations. The owner hereby agrees to covenant that the employee placed as on-site manager would qualify as a low-income individual or household as defined in this Agreement.

2.2 Affordable Units Generally

2.2.1 Allocation of Affordable Units. During the Term of the Agreement, twenty (20) Units, including at least six (6) three-bedroom units and fourteen (14) two-bedroom units, are to be occupied by Very Low and Low Income households at an Affordable Rent, as provided herein, or held available for same as follows: At least four (4) three-bedroom units, and eleven (11) two-bedroom units shall be occupied by or held available for Very Low Income households for the life of the Project. At least two (2) three-bedroom units and three (3) two-bedroom units, shall be occupied by or held available for Low Income households for the life of the Project. The "Unit Allocation" is attached as Exhibit "D".

2.2.2 Preference Policies No preference or priority of rental of the Affordable Units shall be given to otherwise eligible Very Low, or Low Income employees of Owner, or the management company (except one on-site management employee as discussed in Section 2.2.1), or any other Affiliates thereof, including, but not limited to agents, contractors, subcontractors, or subsidiaries. To the extent permitted by applicable state and federal law, priority shall be granted to eligible Moorpark residents for the Term of the Agreement. A waiting list for the Affordable Units shall be maintained from which vacancies shall be filled. The waiting list shall be established through a fair process for the selection of the next eligible households to fill the vacancies allowing for priority for Moorpark residents. Details of this process shall be submitted in writing to the Agency for review and approval prior to the issuance of the first building permit for this project.

2.2.3 Occupancy Reporting . As specified in Section 2.11, Owner will advise Agency on a quarterly or other periodic basis in writing of the number of Affordable Units occupied by Very Low and Low Income Tenants by delivery of a certificate in the form specified by the Agency, which is attached hereto as Exhibit "C". Any reporting schedule less frequent than quarterly must be approved by the Executive Director.

2.2.6 Unit Classification An Affordable Unit occupied by a Very Low Income Tenant, or a Low Income Tenant shall be deemed, upon termination of occupancy by such tenant (whether voluntarily or involuntarily), to be continuously occupied by a Very Low Income Tenant, or a Low Income Tenant, as applicable, until re-occupied other than for a temporary period, at which time the classification of the Unit shall be re-determined. Owner shall use commercially reasonable efforts to prevent such temporary periods from exceeding sixty (60) days. Owner will also obtain and maintain

on file such Certifications of Tenant Eligibility in form similar to Exhibit "B" attached hereto and incorporated herein by reference, for each Very Low, Low and Moderate Income Tenant as the Agency may, from time to time, require. Owner may substitute a form different than the attached form upon Agency approval. Owner shall make a good faith effort to verify that the income provided by an applicant in an income certification is accurate by reviewing any one or more of the following documents which shall be provided by the applicant:

- (a) A pay stub for the most recent pay period;
- (b) An income tax return for the most recent tax year;
- (c) An income verification form from the applicant's current employer;
- (d) An income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of those agencies; or

(e) If the applicant is unemployed and has no tax return, another form of independent verification.

2.2.7 Lease Provisions. The Owner shall include provisions in leases or rental agreements for all Affordable Units which authorize the Owner to immediately terminate the tenancy of any tenant occupying an Affordable Unit where one or more of such tenants have misrepresented any fact material to the qualification of such an individual or household as a Very Low or Low Income Tenant and/or for qualification for occupancy of an Affordable Unit. Each lease or rental agreement for an Affordable Unit shall also provide that the tenants of such Affordable Unit shall be subject to annual certification or recertification of income, as required by the Agency, and shall be subject to rental increases in accordance with Sections 2.6 of this Plan.

2.2.8 Management Diligence. Owner shall use commercially reasonable efforts not to allow any rent-ready Affordable Unit to remain vacant.

2.3 Rent-Up Periods and Occupancy Procedures.

2.3.1 Prior to the Initial Rent-Up, Owner shall propose specific Units in the Project to be the Very Low and Low Income Units and present this to the Agency for approval by the Planning Director.

2.3.2 During the Initial Rent-Up, the Very Low Income Units occupied by Very Low Income households, plus those Units held available for occupancy by such tenants, shall be equal to fifteen (15) units.

2.3.3 During the Initial Rent-Up, the Low Income Units occupied by Low Income households, plus those Units held available for occupancy by such tenants, shall be equal to five (5) units.

2.3.4 Subsequent to the Initial Rent-up, and subject to the terms of this Plan, Owner shall have the right, from time to time, to re-designate Very Low, and Low Income Units so long as: (1) the Unit Allocation remains substantially the same throughout the Term, but in no event shall the number of Very Low or Low Income Units, occupied by or held vacant and available for occupancy by certified eligible Very Low or Low Income Tenants as applicable, be fewer than twenty (20); and (2) Owner provides written notice to the Agency of such re-allocation.

2.3.6 In connection with the Initial Lease-Up of the Project, Owner will adopt outreach programs to locate qualified tenants for the Project and shall establish such procedures for occupancy, rental, and rent grievances as may be reasonably required by the Agency. Not later than ten (10) days prior to the commencement of marketing, Owner shall prepare and submit to the Agency for reasonable approval a marketing and outreach program which shall contain, among other things, the following: how a potential tenant would apply to rent a Unit in the Project, including where to apply, applicable income limits and rent levels; support documentation needed such as pay stubs, tax returns, or confirmation of disability, if applicable, a description of procedures Owner will follow to publicize vacancies in the Project, including notice in newspapers of general circulation, including at least one Spanish-language newspaper and mailing notices of vacancies to or contacting by telephone potential tenants on the waiting list maintained by Owner. Notices shall also be given to organizations in Ventura County which provide referrals or other services to persons with disabilities.

2.4 Affordable Rent. Monthly rent shall be calculated in accordance with California Health and Safety Code Section 50053. "Family size appropriate to the Unit", as shown on Exhibit D is defined in Section 50052.5(h) of the California Health and Safety Code to be 2 persons for a 1 bedroom unit, 3 persons for a 2 bedroom unit and 4 persons for a 3 bedroom unit. Currently monthly rent is calculated as:

2.4.1. Monthly rent charged to Very Low Income Tenants shall be no greater than thirty percent (30%) of fifty percent (50%) of County Median Income, adjusted for family size appropriate for the Unit, less the Utility Allowance.

2.4.2 Monthly rent charged to Low Income Tenants shall be no greater than thirty percent (30%) of sixty percent (60%) of County Median Income, adjusted for family size appropriate for the Unit, less the Utility Allowance.

2.5 Alternative Affordable Rent Calculations

In the event that requirements or practices of the California Tax Credit Allocation Committee (CTAC), or other entity or entities similarly associated with anticipated financing of the construction of this project, or future prudent refinancing of this project, utilizes definitions, sources of information, etc., other than those which have been herein defined and utilized in calculating Affordable Rent, then the procedure or input which produces the lowest affordable rent, will prevail.

2.6 Income Recertification; Rent Increases.

2.6.1 Owner shall cause the income of each Tenant of an Affordable Unit to be re-certified on an annual basis on the anniversary date of each such tenant's initial rental date. This recertification shall be submitted to the Agency within thirty (30) days of such action.

2.6.2 Except as provided in Section 2.7 below, rents for the Affordable Units may be increased only once per year, concurrently with or subsequent to any increase in the County Median Income when and as determined by HCD. The rents charged for the Affordable Units following such an increase, or upon a vacancy and new occupancy by a Very Low or Low Income Tenant, as the case may be, shall not exceed the allowable rent calculated in compliance with Sections 2.4.1, 2.4.2, and 2.5 of this Plan.

2.7 Increased Income of Occupying Households.

2.7.1 If, upon income recertification, the Owner determines that the household income of a Very Low Income Tenant has increased above the maximum allowable household income of a Very Low Income Tenant, to not more than Low Income, then the Owner shall not be required to evict the Tenant and the monthly rent charged to such Tenant shall be no more than one twelfth (1/12) of thirty percent (30%) of sixty (60%) of the County Median Income for the size household appropriate to the unit, less the utility allowance. In this event, the next available unit that was previously a Low Income unit must be rented to or held vacant and available for immediate occupancy by a Very Low Income household, as the case may be, at an affordable rent (1/12 of 30% of 50% of Median Income, in the case of a Very Low Income unit, both of which are net of the utility allowance).

2.7.2 If, upon income re-certification, the Owner determines that the income of a tenant occupying one of the Affordable Units has increased and now exceeds that of a Low Income household, the Tenant is no longer eligible to rent the unit, and the Owner shall provide written notice to the Tenant to vacate the unit within six (6) months.

2.7.3 A Unit occupied by a Very Low or Low Income Tenant shall be deemed, upon the termination of such household's occupancy, to be continuously

occupied by a Very Low or Low Income Tenant, as applicable, until re-occupied by another tenant, at which time the character of the Unit shall be re-determined.

2.8 Specific Enforcement of Affordability Restrictions.

2.8.1 Owner hereby agrees that specific enforcement of Owner's agreement to comply with the allowable rent and occupancy restrictions of this Plan is one of the reasons for the Agency's entering into the DDA and providing the Density Bonus.

2.8.2 Owner further agrees that, in the event of Owner's breach of such requirements, potential monetary damages to Agency, as well as prospective Very Low and Low Income Tenants would be difficult, if not impossible, to evaluate and quantify.

2.8.3 Therefore, in addition to any other relief to which the Agency may be entitled as a consequence of the breach hereof, Owner agrees to the imposition of the remedy of specific performance against it in the case of any event of default by Owner in complying with the allowable rent, occupancy restrictions or any other provision of this Plan.

2.9 Agency's Option to Place Tenants.

2.9.1 Units. Agency has the right, at its option, to place tenants from time to time in vacant Units in the Project, including but not limited to persons and households who need housing as the result of having been relocated from housing within the City of Moorpark by the action of the Agency or another public agency, or other similar reason (a "Qualifying Event"). The Agency shall have the right, in its sole discretion, and hereby notifies Owner that Agency intends to utilize its option and right to place into vacant Units in the Project eligible Very Low or Low Income households. From time to time and at any time during the Term, Agency may give written notice to Owner (the "Option Notice") that Agency intends to exercise its option as to one or a specified number more than one of the next available Units, as provided in paragraphs a. and b. of this Section 2.9.1, below. Agency shall have the right to subsidize the rents otherwise payable pursuant to this Plan by any Very Low Income Tenants, and, to the extent the Agency determines it necessary, the Agency may subsidize the rents of Very Low Income Tenants placed in vacant Units by the Agency in accordance with this Section 2.9. For purposes of this Plan, any tenant who is referred to the Project by the Agency as the result of a Qualifying Event, and who satisfies the income eligibility requirements of this Plan, shall be deemed an eligible Very Low Income Tenant .

a. Initial Rent-Up. The Agency may give one or more Option Notices at any time following the execution of the Agreement and prior to the leasing up of all the Affordable Units and Agency shall have the exclusive right for ten (10) days after delivery of such Option Notice to place tenants into all or any number of the then

un-rented Affordable Units, subject to the terms of this Plan. The option shall be exercised for each Affordable Unit listed in an Option Notice as follows: within ten (10) days after receipt of an Option Notice during Initial Rent-Up (the "Application Date"), the tenant referred by Agency shall go to Owner's rental office to fill out an application form. Agency's option to place a tenant into any such Affordable Unit shall lapse if, by the end of the ten (10) day period following delivery of an Option Notice, a qualified tenant referred by Agency has not filled out the application form and does not subsequently sign Owner's standard form of lease.

b. Subsequent to Initial Rent-Up. Subsequent to Initial Rent-Up, after the receipt of an Option Notice from Agency, Owner shall give written notice to the Agency upon any vacancy of an Affordable Unit ("Vacancy Notice"), and Agency shall have the exclusive right for ten (10) days after receipt of such Vacancy Notice, to place a qualified tenant into such vacated Affordable Unit, subject to the terms of this Plan. The option shall be exercised for each Affordable Unit listed in a Vacancy Notice as follows: within ten (10) days after receipt of a Vacancy Notice (the "Application Date"), the qualified tenant referred by Agency shall go to Owner's rental office to fill out an application form. Agency's option to place a tenant into any such Affordable Unit shall lapse if, by the end of the ten (10) day period following delivery of a Vacancy Notice, a qualified tenant referred by Agency has not filled out the application form and does not subsequently sign Owner's standard form of lease.

2.9.2 Eligibility. Any applicant proposed as a tenant for the Affordable Units subject to this Section 2.8.2 shall be required to comply with all customary rental agreement or lease provisions. As with any other tenant of the Project, Owner shall have the right to terminate such tenant's tenancy if such tenant breaches the standard lease or rental agreement provisions. Owner shall accept as tenants, on the same basis as all other prospective tenants, Very Low and Low Income who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, as amended, or its successor ("Housing Act"). The preceding requirement applies to all units in the Project, including the Affordable Units and the non-restricted units. Owner shall not permit any selection criteria to be applied to Section 8 certificate or voucher holders that is more burdensome than the criteria applied to all other prospective tenants.

2.10 Priority for Moorpark Residents. To the extent permitted by applicable state and federal law, priority shall be granted to eligible Moorpark residents exclusively for the first thirty (30) days of project lease-up and should be a general rule for the Term of the Agreement.

2.11 Reporting Requirements.

2.11.1 From the commencement of construction until the end of the first quarter or the end of the calendar quarter in which construction of the Project was

completed, whichever occurs later, Owner shall prepare and submit to the Agency, on a monthly basis, written reports, setting forth the rental activity for the previous month, and the current total number of Affordable Units occupied by tenants.

2.11.2 Commencing with the first full calendar quarter after the last period covered by monthly reports pursuant to Section 2.11.1, Owner shall prepare and submit to the Agency, on a quarterly basis, not later than the 15th day of each calendar quarter, a Certificate of Continuing Program Compliance in a form similar to Exhibit "C" hereto, or other form Owner may use upon Agency approval, stating: (a) the number and percentage of Affordable Units in the Project which were occupied by Very Low and Low Income Tenants, or held vacant and available for occupancy by such Tenants during said period; and (b) that to the knowledge of the Owner, no default has occurred under the provisions of this Plan.

2.11.3 Owner shall prepare and submit to the Agency, on an annual basis, a report in form and substance reasonably satisfactory to the Agency, not later than March 31st of each year for the preceding calendar year, summarizing the vacancy rate of the Affordable Units in the Project on a month-to-month basis for such calendar year.

ARTICLE 3 OPERATIONS

3.1 Management Agent.

3.1.1 The Project shall at all times be managed by the Owner or an experienced third-party management agent with demonstrated ability to operate residential housing in a manner that will provide decent, safe and sanitary residential facilities to occupants thereof, including experience in complying with reporting requirements and occupancy restrictions similar to those imposed upon the Project by the terms of this Plan.

3.1.2 As of the date of the Agreement, the Owner directly or through an affiliate may be the "management agent" of the Project. The Owner may retain on-site personnel and other consultants and service providers to assist Owner to operate the Project effectively and in compliance with the provisions of this Plan and state and federal law.

3.1.3 In the event that Owner seeks to appoint a replacement management entity to manage the Project, the Owner shall advise the Agency of the identity of any such qualified management agent not later than thirty (30) days prior to the effective date of such appointment. The Owner shall also submit such additional information about the background, experience and financial condition of any proposed management agent as is reasonably requested by the Agency.

3.1.4 Upon the Agency's request, the Owner shall cooperate with the Agency in an annual review of the management practices and status of Project. The

purpose of each annual review will be to enable the Agency to determine if the Project is being operated and managed in accordance with the requirements and standards of this Plan.

3.2 Day-to-Day Management Responsibility. The following procedure shall be followed to ensure effective day-to-day operation of the Project and cooperation between the Agency, the Owner and the management agent:

3.2.1 Day-to-day operation of the Project will be under the direct supervision of an on-site management agent or resident manager who will report to the management agent.

3.2.2 There will be regular meetings as necessary between the Owner and the management agent for the purpose of reviewing policies, procedures, resident relations and budget control.

3.3 Staffing Arrangements. Owner shall provide for adequate on-site staffing of management personnel to manage the Project in a prudent and businesslike manner. In addition, Owner shall provide such security services as may be necessary or appropriate for the Project. All hiring of on-site personnel shall conform to applicable equal opportunity guidelines, without regard to race, religion, color, national origin or sex. All hiring materials will indicate that the Project is an "Equal Opportunity Employer." Employment grievances, terminations and promotions will be conducted according to personnel policies and procedures which conform with equal opportunity laws. All personnel employed at the Project will receive training specific to Owner's policies and procedures.

ARTICLE 4 MAINTENANCE

4.1 Maintenance, Repair, Alterations. Owner shall maintain and preserve the Project and the Property in good condition and repair and in a prudent and businesslike manner. Restoration of damaged improvements shall be made to a condition as good as existed prior to the damage. Owner shall complete promptly and in a good and workmanlike manner any improvements which may now or hereafter be constructed on the Project or the Property and pay when due all claims for labor performed and material furnished therefor. Owner shall comply with all laws, ordinances, rules, regulations, covenants, conditions, restrictions, and orders of any governmental authority now or hereafter affecting the conduct or operation of the Project and of Owner's business on the Project or any part thereof or requiring any alteration or improvement to be made thereon. Owner shall maintain abutting grounds, sidewalks, roads, parking, and landscaped areas in good and neat order and repair. Owner hereby agrees that Agency may conduct from time to time through representatives of its own choice who are properly identified as agents of the Agency, upon reasonable notice and subject to reasonable security and safety procedures and

rights of tenants in possession, on-site inspections and observation of such records of Owner relating to the Project and the Property as Agency reasonably deems to be necessary or appropriate in order to monitor Owner's compliance with the provisions of this Plan. The Owner shall conduct an ongoing maintenance program, which shall include the following:

(a) Scheduled preventative maintenance and repair of installed equipment in accordance with manufacturers' recommendations.

(b) Routine repairs to kitchen appliances, electrical, plumbing and heating equipment.

(c) Preventative annual apartment inspections to regularly and consistently ascertain the condition of each apartment unit.

(d) Preventative regular inspections of common areas and equipment as well as regular schedules (daily, weekly, monthly, quarterly, etc.) for maintaining the same. This will include maintenance of exterior areas to keep grounds free of graffiti, litter, trash and paper. Parking areas will be maintained in good repair and free from dirt and litter. Common areas such as hallways and laundry rooms will be swept and cleaned regularly and kept free of trash and other debris. Garbage removal will be provided through arrangements with a contractor, consistent with applicable Agency ordinances. The trash areas will be swept regularly and scrubbed with disinfectant when necessary. Extermination services will be contracted with to provide pest control consistent with high quality apartment management practices.

(e) Contract with a landscape firm to maintain the landscaped areas in an attractive and healthy condition.

(f) Interior painting and carpet cleaning or replacement in individual apartment units shall be based on need, substantiated by the annual physical inspection, or as occupancy changes, or as the Owner or its management agent may otherwise deem necessary.

(g) Owner will employ a maintenance work order procedure in the Project to adequately document requests for work and promptness within which the work has been completed.

4.2 Disclaimer. Nothing in this Plan shall make Agency responsible for making or completing capital repairs or replacements to the Project or the Property or require Agency to expend funds to make or complete the same. Upon three (3) business days' notice to Owner, properly identified representatives of Agency may enter onto the Property during normal business hours (subject to the rights of tenants under their leases) to inspect the progress of any capital repairs and replacements and the general condition of the Project or the Property; provided, in the event of emergencies,

Agency shall give only such notice to Owner as may be practicable under the circumstances.

4.3 Mechanics Liens. Owner shall pay and promptly discharge when due all liens, encumbrances and charges upon the Project, the Property or any part thereof relating to mechanics, laborers, materialmen's, suppliers or vendor's liens or rights. Owner shall have the right to contest in good faith the validity of any such lien, encumbrance or charge.

ARTICLE 5 GENERAL PROVISIONS

5.1 General Use Restrictions. The Project and Property will be used only for purposes consistent with this Plan and with the Redevelopment Plan for the City of Moorpark Redevelopment Project Area, subject to the affordability and income restrictions set forth herein.

5.2 Residential Rental Property.

5.2.1 The Project and Property will be held and used for the purpose of providing multifamily residential rental housing, and Owner shall own, manage and operate, or cause the management and operation of, the Project to provide multifamily rental housing and for no other purposes, other than such purposes which are ancillary to and supportive of multifamily rental housing.

5.2.2 If, for any reason, the Property is not used for multifamily rental housing, by the Owner, Partnership, or any subsequent owner, the Property shall immediately revert to the ownership of the City. This reversion covenant shall be recorded on the grant deed prior to conveyance of the Property from the City to the Agency and surviving this Agreement.

5.2.3 The facilities functionally related and subordinate to the Project include facilities for use by the tenants thereof, including for example, swimming pools, other recreational facilities and meeting rooms, parking areas, and other facilities which are reasonably required for the Project (heating and cooling equipment, trash disposal equipment, and Units set aside and used for residential managers or maintenance personnel and as a leasing office).

5.2.4 The Affordable Units in the Project shall not be used on a transient basis and shall not be rented for a period of less than thirty (30) consecutive days. None of the Units in the Project will at any time be converted to, leased or rented as for-sale condominiums, community apartments, planned development, stock cooperative, or other common interest development, a congregate care or assisted living facility, fraternity house, sorority house, rooming house, hospital, nursing home, sanitary or rest home, or trailer court or park.

5.3 Lease Provisions. The provisions relating to certification and recertification of income in the form of lease or rental agreement used by the Owner for the lease or rental of the Affordable Units shall be subject to review and approval by the Agency, the approval of which shall not be unreasonably withheld. If the lease or rental agreement provisions specified in this Section 5.3 are not approved or disapproved within thirty (30) days after submittal to Agency, they shall be deemed approved.

5.3.1 Each lease or rental agreement shall provide that the Owner will not discriminate on the basis of race, creed, color, sex, national origin, ancestry, religion, marital status, disability or receipt of public assistance or housing assistance in connection with the rental of a Unit in the Project, or in connection with the employment or application for employment of persons for operation and management of the Project, and all contracts, applications and leases entered into for such purposes shall contain similar non-discrimination clauses to such effect.

5.4 Security Deposits. The Owner shall not require rental deposits in excess of one-month's rent for any Affordable Unit, but may require refundable deposits for pet damages, keys and garage door openers, not in excess of market rates.

5.5 Additional Information; Books and Records. Owner shall provide, within thirty (30) days of request, additional information concerning the Affordable Units and/or Affordable Unit Allocation reasonably requested by the Agency in writing. The Agency shall have the right to examine and make copies of all books, records or other documents maintained by Owner or by any of Owner's agents which pertain to any Affordable Unit. Record-keeping exhibits attached to this Plan may be changed at Agency's option with thirty (30) days' notice.

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

5.7 Enforcement of Plan. This Plan, without regard to technical classification or designation, shall be binding for the benefit of the Agency, and such covenants shall run in favor of the Agency for the entire period during which such covenants shall be in force and effect, without regard to whether the Agency is or remains an owner of any land or interest therein to which such covenants relate. The Agency, in the event of any breach of any such covenants, shall have the right to exercise all the rights and remedies, and to maintain any action at law or suits in equity or other proper proceedings to enforce the curing of such breach.

5.8 Binding on Successors and Assigns. Notwithstanding any other provision of law, this Plan shall run with the land and shall be enforceable against the Owner and successors in interest by the Agency. The requirements of this Plan shall remain in effect with respect to the Property for the Term, as determined by the Agency.

REDEVELOPMENT AGENCY OF
THE CITY OF MOORPARK

By: _____
Name:
Title:

EXHIBIT A

Legal Description

THE LAND REFERRED TO IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF VENTURA, AND IS DESCRIBED AS FOLLOWS:

EXHIBIT B

New Certification _____ / Recertification _____ Unit Number _____

INCOME COMPUTATION AND CERTIFICATION

NOTE TO APARTMENT OWNER: This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Project ("HUD") Regulations (24 CFR 813). You should make certain that this form is at all times up to date with the HUD Regulations. All capitalized terms used herein shall have the meaning set forth in the Regulatory Agreement.

Re: (NAME and ADDRESS of Apartment Building)

Essex Portfolio, L. P. - Moorpark

I/We the undersigned state that I/we have read and answered fully, frankly and personally each of the following questions for all persons who are to occupy the unit being applied for in the above apartment project. Listed below are the names of all persons who intend to reside in the unit:

1. Name of Members Of the Household	2. Relationship to Head of Household	3. Age	4. Social Security Number	5. Place of Employment
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Income Computation

6. The total anticipated income, calculated in accordance with this paragraph 6, of all persons (except children under 18 years) listed above for the 12-month period beginning the earlier of the date that I/we plan to move into a unit or sign a lease for a unit is \$ _____.

If this form is being completed in accordance with recertification of a Lower Income Tenant's or Very Low Income Tenant's occupancy of a Lower Income Unit or a Very Low Income Unit, respectively, this form must be completed based upon the current income of the occupants.

Included in the total anticipated income listed above are:

(a) the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services;

(b) the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowances for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets in vested in the operation by the family ;

(c) interest and dividends and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (6)(b) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by the Department of Housing and Urban Development;

(d) the full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including any lump sum amount except deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;

(e) payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay;

(f) welfare assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

- (1) the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
- (2) the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced form the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage;

(g) periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(h) all regular pay, special pay and allowances of a member of the Armed Forces except the special pay to a family member serving in the Armed Forces except the special pay to a family member serving in the Armed Forces who is exposed to hostile fire; and

Excluded from such anticipated income are:

(a) income from employment of children (including foster children) under the age of 18 years;

(b) payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(c) lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses except payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;

(d) amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(e) income of a live-in aide, as defined by 24 CFR §5.403;

(f) the full amount of student financial assistance paid directly to the student or to the educational institution;

(g) the special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(h) (1) amounts received under training programs funded by the Department of Housing and Urban Development;

(2) amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(3) amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(4) amounts received under a resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Public Housing Issuer or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall

monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;

(5) incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.

(i) temporary, nonrecurring or sporadic income (including gifts);

(j) reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(k) earnings in excess of \$480 for each full-term student 18 years old or older (excluding the head of household and spouse);

(l) adoption assistance payments in excess of \$480 per adopted child; and

(m) deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;

(n) amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(o) amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(p) amounts specifically excluded by an other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR §5.609(c) apply.

7. Do the persons whose income or contributions are included in item 6 above:

(a) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles and interests in Indian trust land)

_____ Yes _____ No; or

(b) have they disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value?

_____ Yes _____ No

(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than \$5,000?
_____ Yes _____ No

(d) If the answer to (c) above is yes, state:

- (1) the combined total value of all such assets: \$ _____
- (2) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy in the unit that you propose to rent: \$ _____, and
- (3) the amount of such income, if any, that was included in item 6 above: \$ _____

8. (a) Are all of the individuals who propose to reside in the unit full-time students*?
_____ Yes _____ No

*A full-time student is an individual enrolled as a full-time student during each of 5 calendar months during the calendar year in which occupancy of the unit begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or is an individual pursuing a full-time course of institutional or farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

(b) If the answer to 8(a) is yes, is at least 2 of the proposed occupants of the unit a husband and wife entitled to file a joint federal income tax return?
_____ Yes _____ No

9. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter the "Owner"), has any family relationship to the Owner; or owns directly or indirectly any interest in the Owner. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or Trustee held by the individual or a family member; and ownership, direct or indirect, by a partner of the individual.

10. This certificate is made with the knowledge that it will be relied upon by the Owner to determine maximum income for eligibility to occupy the unit; and I/we declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable and that the statement of total anticipated income contained in paragraph 6 is reasonable and based upon such investigation as the undersigned deemed necessary.

11. I/We will assist the Owner in obtaining any information or documents required to verify the statements made herein, including either an income verification from my/our

present employer(s) or copies of federal tax returns for the immediately preceding calendar year.

12. I/We acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Owner to lease the unit and will entitle the Owner to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

I/We declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____, 20____ (year) in the City of Moorpark, California

Applicant Applicant

Applicant Applicant

[Signature of all persons (except children under the age of 18 years) listed in number 2 above required]

FOR COMPLETION BY APARTMENT OWNER ONLY:

1. Calculation of eligible income:

a. Enter amount entered for entire household in 6 above: \$ _____

b. (1) If the amount entered in 7(c) above is yes, enter the total amount entered in 7(d)(2), subtract from that figure the amount entered in 7(d)(3) and enter the remaining balance (\$ _____);

(2) Multiply the amount entered in 7(d)(1) times the current passbook savings rate as determined by HUD to determine what the total annual earnings on the amount in 7(d)(1) would be if invested in passbook savings (\$ _____), subtract from that figure the amount entered in 7(d)(3) and enter the remaining balance (\$ _____);

(3) Enter at right the greater of the amount calculated under (1) or (2) above:
\$ _____

c. TOTAL ELIGIBLE INCOME (line 1.a plus line 1.b(3)):
\$ _____

2. The amount entered in 1.c:

_____ Qualifies the applicant(s) as a Moderate-Income Tenant(s).

_____ Qualifies the applicant(s) as a Lower-Income Tenant(s).

_____ Qualifies the applicant(s) as a Very-Low Income Tenant(s).

3. Number of apartment unit assigned: _____ Bedroom size: _____
Rent: \$ _____

4. This apartment unit (**was/was not**) last occupied for a period of 31 or more consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit qualified them as a Lower-Income Tenant(s).

4

5. Method used to verify applicant(s) income:

_____ Employer income verification.

_____ Copies of tax returns.

_____ Other(_____)

Manager

Date

5

INCOME CALCULATION WORKSHEET

Include all household income for all persons over 18 years of age. Written verification of all income must be included.

Applicant	Gross Wages & Salaries* (YTD as of: _____)	Net Income from 1040 (self employed)	1099 Income	Public Assistance	Social Security	Pension	Unemployment disability or workers compensation pay	Military Pay	Alimony and/or Child Support	Family Supp. (regular gift from person not living in unit)
1										
2										
3										
4										

(A) TOTAL INCOME \$ _____

*Includes overtime pay, commissions, fees, tips, and bonuses. Does not include amounts received as reimbursements of medical costs or insurance payments.

ASSET CALCULATION

All income earned on assets in excess of \$5,000 must be included as household income. Written verification must be included. If written verification is not available for savings, the current passbook savings rate as determined by HUD may be used.

Real Property* \$ _____ Savings \$ _____
 Stocks \$ _____ Bonds \$ _____
 Other** \$ _____

(B) TOTAL ASSET INCOME \$ _____

*Includes rental income or equity if not rented only. Equity is the difference between the market value of the property and the total dollar amount of any loans secured by the property.

**Does not include the personal property i.e., furniture or automobiles.

TOTAL HOUSEHOLD INCOME (A + B) \$

**INCOME VERIFICATION
(FOR EMPLOYED PERSONS)**

The undersigned employee has applied for a rental unit located in a project financed under the Multifamily Revenue Bond Program for persons of low and very low income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

EMPLOYER

<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Annual Wages (Gross)</td> <td style="width: 50%; text-align: right;">_____</td> </tr> <tr> <td>Overtime</td> <td style="text-align: right;">_____</td> </tr> <tr> <td>Bonuses</td> <td style="text-align: right;">_____</td> </tr> <tr> <td>Commissions</td> <td style="text-align: right;">_____</td> </tr> <tr> <td>Current Base Pay</td> <td style="text-align: right;">_____</td> </tr> </table>	Annual Wages (Gross)	_____	Overtime	_____	Bonuses	_____	Commissions	_____	Current Base Pay	_____	<table style="width: 100%; border-collapse: collapse;"> <tr> <td>Other Income</td> <td style="text-align: right;">_____</td> </tr> <tr> <td>Avg. Total Hours Worked Weekly</td> <td style="text-align: right;">_____</td> </tr> <tr> <td>Total Current Income</td> <td style="text-align: right;">_____</td> </tr> <tr> <td>Year-to-Date Income</td> <td style="text-align: right;">_____</td> </tr> </table>	Other Income	_____	Avg. Total Hours Worked Weekly	_____	Total Current Income	_____	Year-to-Date Income	_____
Annual Wages (Gross)	_____																		
Overtime	_____																		
Bonuses	_____																		
Commissions	_____																		
Current Base Pay	_____																		
Other Income	_____																		
Avg. Total Hours Worked Weekly	_____																		
Total Current Income	_____																		
Year-to-Date Income	_____																		

Pay Period:	<input type="checkbox"/> Weekly	<input type="checkbox"/> Bi-weekly	<input type="checkbox"/> Monthly	<input type="checkbox"/> Other _____
-------------	---------------------------------	------------------------------------	----------------------------------	--------------------------------------

Do you anticipate an increase in the base pay over the next 12 months? Yes No
 If so, please indicate the amount of anticipated increase \$ _____ per _____
 start date: _____

NOTE TO EMPLOYER: This form is an estimate of anticipated earnings solely for the purpose of determining income status. This form does not constitute a promise by the employer to the employee of guaranteed wages, bonuses or raises.

I hereby certify that the statements above are true and complete to the best of my knowledge.

Date Employer

Signature Title

Employer's Address Employer's Phone Number

APPLICANT

I hereby grant you permission to disclose my income to _____ in order that they may determine my income eligibility for rental of an apartment located in their project which has been financed under the Multifamily Revenue Bond Program.

Date

Print Name (Resident)

Signature (Resident)

Please send to: _____
(Management Co. _____
or Owner) _____

INCOME VERIFICATION
(for self-employed persons)

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding calendar year and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

Signature

Date

INCOME VERIFICATION
(for Social Security recipients)

TO: SOCIAL SECURITY ADMINISTRATION

Ladies and Gentlemen:

I have applied for a rental unit located in a project financed under the _____ Multifamily Housing Program for persons of very low income: Every income statement of a prospective tenant must be stringently verified. In connection with my application for a rental unit, I hereby authorize the Department of Social Services to release to _____ the specific information requested below:

Date: _____

Signature: _____

Social Security No.: _____

Name (Print): _____

Address(Print) _____

Monthly Benefits Began/Will Begin:

Social Security Benefit Amount:

\$ _____

Other Benefit(s): _____ Amount: \$ _____

Medicare Deductions: \$ _____

Are benefits expected to change? Yes No

If yes, please state date and amount:

Date: _____ of change

Amount \$ _____

If recipient is not receiving full benefit amount; please indicate reason and date recipient will start receiving full benefit amount:

Reason:

Date of Resumption: _____

Amount: _____

Date: _____

Signature: _____

Title: _____

Please send form to:

INCOME VERIFICATION
(for Department Social Services recipients)

TO: CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Ladies and Gentlemen:

I am receiving assistance through your office. I have applied for a rental unit located in project financed under the _____ Multifamily Housing Program for persons of very low income. Every income statement of a prospective tenant must be stringently verified. In connection with my application for a rental unit, I hereby authorize the Department of Social Services to release to _____ the specific information requested below:

Date: _____

Signature: _____

Caseload Number: _____

Name (Print): _____

Case Number: _____

Case Worker: _____

1. Number of persons included in budget: _____

2. Total monthly budget \$ _____

(a) Amount of grant \$ _____

(b) Date aid last began: _____

(c) Other income and source: _____

(d) Is other income included in total budget? Yes No

3. Please specify type of aid: (AFDC, FR, Food Stamps, ANB, MediCal, Etc.): _____

4. If recipient is not receiving full grant, please indicate reason:

- Overpayment due to client's failure to report other income
- Computation error

Other: _____

Date when full grant will resume: _____

Date: _____

Case Worker's Signature: _____

Telephone: _____

District Office: _____

Your very early response will be appreciated.

Please return form to:

DECLARATION OF NO INCOME

As managing agents for _____
(Name of Development)

assisted by the Low Income Housing Program, we are required to verify all income. To comply with this requirement, we ask your cooperation in supplying the information requested in the Certification below. This information will be held in strict confidence and used only for the purpose of establishing eligibility.

 Name of Management Company

By:

 Name and Title

CERTIFICATION

I, _____, do hereby certify that I do NOT receive income from ANY source. I understand sources of income include, but are not limited to the following:

Employment	Study	Pensions
Unemployment	Self Employment	General Assistance
Compensation	AFDC	Disability
Social Security	SSI	Union Benefits
Workers Compensation	Retirement Funds	Family Support
Child Support	Alimony	Annuities
Education Grants/Work	Income from Assets	

I understand that should I become gainfully employed or begin receiving income from any source, I must report the information to the manager immediately.

I certify that the foregoing information is true, complete and correct. Inquiries may be made to verify statements herein. I also understand that false statements or omissions are grounds for disqualification and/or prosecution under the full extent of California law.

 Signature

 Date

 Witness Signature

 Date

Support Verification

Source's Mailing Address: _____

Phone #: _____

Fax #: _____

Recipient: _____

Federal law requires that we verify the annual income of all persons applying for admissions to or living in a community that offers affordable housing. This community operates under the guidelines of Section 42 of the Internal Revenue Code. To comply with these requirements, we ask your cooperation in supplying the information requested below regarding the above referenced individuals. This information will be used only for determination of eligibility and/or rent computation. You will notice a release of information is authorized by the applicant/tenant's signature below.

Your assistance in completing this form accurately and timely is greatly appreciated!

Applicant/Tenant Release Statement	
Applicant/Tenant _____	Name: _____
I hereby authorize the release of the following information in order to determine my eligibility for the Bond Program. Please complete the form in full and return it to the MANAGEMENT COMPANY at your earliest convenience.	
Signature: _____	
Social Security #: _____	

Please complete the following. If the monies are based on a percentage of the payor's income, please indicate the average amount per period.

Type of Benefit	Amount	Frequency
<input type="checkbox"/> Child Support	_____	() weekly () monthly ()

		yearly
<input type="checkbox"/> Family Support	_____	() weekly () monthly () yearly
<input type="checkbox"/> Alimony	_____	() weekly () monthly () yearly
<input type="checkbox"/> Other _____ _____ (Please list type)	_____	() weekly () monthly () yearly

Are monies paid to offset an AFDC grant? Yes No

Do you anticipate any changes in the next 12 months? Yes No

Comments: _____

Signature _____ of _____ Source: _____

SSN#: _____

Date Completed Form: _____

EXHIBIT C
CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE
FOR THE [MONTH/QUARTER] ENDING _____

The undersigned, _____, as the authorized representative of Essex Portfolio, L.P. (the "Owner"), has read and is thoroughly familiar with the provisions of the Affordable Housing Implementation and Rental Restriction Plan by and between Owner and the City of the City of Moorpark (the "City"), dated as of _____, 2009.

As of the date of this Certificate, the following numbers of completed residential Units in the Project (i) are occupied, or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date a Very Low Income Tenant or Low Income Tenant vacated such Unit, as indicated:

Occupied by Very Low Income Tenants

Number of Units: _____

Occupied by Low Income Tenants

Number of Units: _____

Held vacant for occupancy continuously since last occupied by Very Low Income Tenants and Low Income Tenants:

Vacant Units

Number: _____

Occupied Units

Number: _____

Very Low Income Tenants and Low Income Tenants who commenced occupancy of Units during the preceding [month/quarter]:

Very Low Income:

Units Nos.: _____

Low Income:

Units Nos. _____

Attached is a separate sheet (the "Bond Program Report") listing, among other items, the following information for each apartment Unit in the Project: the number of each apartment Unit, the occupants of each Unit, the rental paid for each Unit and the

size and number of bedrooms of each Unit. It also indicates which Units are occupied by Low Income Tenants and Very Low Income Tenants and which Units became Low Income Units and Very Low Income Units during the preceding [month/quarter]. The information contained thereon is true and accurate.

The undersigned hereby certifies that (1) a review of the activities of the Owner during such [month/quarter] and of the Owner's performance under the Affordable Housing Implementation and Rental Restriction Plan, has been made under the supervision of the undersigned; and (2) to the best of the knowledge of the undersigned, based on the review described in clause (1) hereof, the Owner is not

1) in default under any of the terms and provisions of the above documents [or describe the nature of any default in detail and set forth the measures being taken to remedy such default].

Essex Portfolio L.P.

By _____
Name:
Title:

BOND PROGRAM REPORT

Property: _____

Location: _____

Today's Date: _____

Submitted by: _____

Total # Units: _____

Total Units Occupied: _____

Total Habitable/Livable Units: _____

Total New Rentals (Occupied)

(Rehabilitation Projects Only) Current Month/Quarter _____

Total Low/ Very Income Rentals	New Lower Income
Units Occupied : _____	Current
Month/Quarter: _____	
% Of Low/Very Low Income Units Occupied to Total Units:	

# Of Units Held vacant and available for Rent to Lower Income Tenants:	

PLEASE LIST ALL BOND PROGRAM UNITS BELOW IN NUMERIC OR ALPHABETIC ORDER AS LOW/VERY LOW: (Indicate "V" if vacant)

*If tenant (s) are on an Assisted Rental Program such as Section 8, only list tenant portion of rent

EXHIBIT D

TYPE OF UNIT, NUMBER OF UNITS, HOUSEHOLD SIZE ADJUSTMENT AND UTILITY ALLOWANCE

Very-Low Income

<u>Type of Unit</u>	<u>Number of Units</u>	<u>Household Size Adjustment</u>	<u>Utility Allowance</u>
2-br	11	3 persons	\$77
3-br	<u>4</u>	4 persons	\$94
Total	15		

Low Income

Type of Unit	Number of Units	Household Size Adjustment	Utility Allowance
2-br	3	3 persons	\$77
3-br	<u>2</u>	4 persons	\$94
Total	5		

The above Adjustment for Household Size is intended to provide a single rental rate applicable to eligible tenants for each type of unit, and, therefore, is applied regardless of actual household size. The Owner may not charge additional rent based on a larger actual household size.

Illustration: For example, the maximum rent for a Very Low Income Household renting a 2-bedroom unit would be calculated as follows: 30% x 50% x the Ventura County median income for a household of three divided by 12, less the utility allowance [30% x 50% x \$77,500 divided by 12 less \$77 equals \$892].

Illustration: For example, the maximum rent for a Low Income Household renting a 2-bedroom unit would be calculated as follows: 30% x 60% x the Ventura County median income for a household of three divided by 12, less the utility allowance.[30% x 60% x \$77,500 divided by 12 less \$77 equals \$1086].

The above estimated utility allowance is current as of August 20, 2009. It shall be adjusted each XX, commencing on XX, based on the annual change in the Consumer Price Index (CPI). The CPI increase shall be determined, using the information provided by the U.S. Department of Labor, Bureau of Labor Statistics, for all urban consumers, all

items, within the Los Angeles/Riverside/Orange Co. Metropolitan area during the prior year. The first such calculation shall be made using the month of XX over the month of XX and so forth each XX in the Term. If there is a decrease in the CPI, the utility allowance shall remain at the same amount until the next change in the CPI results in an increase.

EXHIBIT NO. 3
TO AFFORDABLE HOUSING AGREEMENT
ASSIGNMENT AND ASSUMPTION AGREEMENT
[BEHIND THIS PAGE]

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement is entered into by and among the REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK ("Agency"), Area Housing Authority of the County of Ventura, a public body, corporate and politic, ("AHA") and _____ ("Assignee") with reference to the following facts:

A The Agency and AHA have heretofore entered into that certain Affordable Housing Agreement, dated as of _____, including the Affordable Housing Implementation and Rental Restriction Plan attached thereto (collectively, the "Agreement"). The Agreement is incorporated herein by this reference.

B Pursuant to the Agreement, AHA has agreed to include and operate affordable units as part of a 200-unit multifamily residential housing complex (the "Project") developed by AHA on certain real property described therein as the "Property".

C AHA has designated the Assignee identified above to take title to the Property.

D As contemplated by the Agreement, AHA intends to assign the Agreement to Assignee, and Assignee intends to assume all rights and obligations of AHA, as "Owner" thereunder.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and other consideration, the receipt and sufficiency of which is hereby acknowledged, the Agency, AHA and Assignee hereby agree as follows:

1 AHA hereby assigns to Assignee all of its right, title and interest in and to the Agreement and Assignee hereby accepts such assignment, and assumes all of the obligations of the Owner thereunder and agrees to be bound thereby in accordance with the terms thereof.

2 Assignee shall accept title to the Property and be bound by the terms and conditions of the Agreement in accordance with the terms thereof. The Agreement and all its attachments and exhibits shall be referred to collectively as the "Agreement."

3 Assignee shall operate the Project in conformance with the Agreement.

4 Assignee shall assume and perform all executory obligations of the Owner pursuant to the Agreement, without exception.

5 Agency hereby consents to and accepts the assumption of the Agreement by Assignee.

6 Agency hereby releases AHA from any and all liability on or under the Agreement arising after the date of this Assignment. In the event of any further assignment subsequent to the assignment of the Agreement to the Assignee identified above, the Assignee identified above shall not be released from liability or obligation under the Agreement except to the extent such release is expressly approved in writing by the Agency upon the acceptance of an assignment and assumption agreement applicable to such subsequent assignment, substantially in the form of this instrument.

7 The principal address of Assignee for purposes of the Agreement is as follows:

[Name of Assignee]

8 This Agreement is made for the sole benefit and protection of the parties hereto, and their successors and assigns, and no other person or persons shall have any right of action or right to rely hereon. As this Agreement contains all the terms and conditions agreed upon between the parties, no other agreement regarding the subject matter thereof, shall be deemed to exist or bind any party unless in writing and signed by the party to be charged. Wherever required, any consent or approval of either party shall not be unreasonably withheld or delayed.

9 This Agreement may be executed in several duplicate originals, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and shall become effective upon execution by the parties, as indicated by the signatures below. The signature pages of one or more counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Agreement, which, with all attached signature pages, shall be deemed to be an original Agreement. When fully executed, the date of this Agreement shall be the later of the dates indicated below:

IN WITNESS WHEREOF, AHA, Agency and Assignee have executed this Agreement.

AREA HOUSING AUTHORITY OF THE
COUNTY OF VENTURA

By: _____

Name:
Title:

[NAME OF ASSIGNEE]

By: _____

The Redevelopment Agency of the City of Moorpark hereby accepts this Assignment and Assumption Agreement.

REDEVELOPMENT AGENCY OF
THE CITY OF MOORPARK

By: _____
Name:
Title:

ATTACHMENT NO. 8

VENTURA COUNTY INCOME LIMITS
EFFECTIVE 2009

HCD Income Limits

Median Income: \$ 86,100

	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
Extremely Low (30% Median)	\$18,400	\$21,000	\$23,650	\$26,250	\$28,350	\$30,450	\$32,550	\$34,650
Very Low (50% Median)	\$30,650	\$35,000	\$39,400	\$43,750	\$47,250	\$50,750	\$54,250	\$57,750
Low (80% Median)	\$49,000	\$56,000	\$63,000	\$70,000	\$75,600	\$81,200	\$86,800	\$92,400
Median	\$60,250	\$68,900	\$77,500	\$86,100	\$93,000	\$99,900	\$106,750	\$113,650
Moderate (120% Median)	\$72,300	\$82,650	\$92,950	\$103,300	\$111,550	\$119,850	\$128,100	\$136,350