



THE CITY OF SAN DIEGO

DATE ISSUED: October 21, 2009 REPORT NO.: RA-09-30

ATTENTION: Honorable Chair and Members of the Redevelopment Agency
Docket of October 27, 2009

SUBJECT: First Implementation to the Owner Participation Agreement (OPA) with
Wakeland Village Green Apartments LP for Acquisition and
Rehabilitation Village Green Apartments

REFERENCE: Report to the Agency RA-08-27, dated October 22, 2008

REQUESTED ACTION:

1. Authorize the Executive Director or Designee to execute the First Implementation to the Owner Participation Agreement with Wakeland Village Green Apartments LP for the Acquisition and Rehabilitation of the Village Green Apartments Project.

STAFF RECOMMENDATION:

Approve the requested action.

SUMMARY:

On October 28, 2008, via resolution R-04342, the Redevelopment Agency (the Agency) approved the Owner Participation Agreement (OPA) between Wakeland Village Green Apartments LP (the Developer) for the Acquisition and Rehabilitation of the Village Green Apartments (4140-4155 Bonillo Drive) within the Crossroads Redevelopment Project Area.

Originally built in 1966, Village Green Apartments is located in the Rolando community near University Avenue between College Avenue and 70th Street. Village Green Apartments consists of 94 townhome style apartment units in 13 two-story wood frame and stucco buildings on approximately seven acres. Wakeland is a California 501(c)(3) nonprofit corporation established in 1998 with the mission of developing affordable housing.

Upon completion of rehabilitation, Village Green will provide 79 two-bedroom apartments, 14 three-bedroom apartments, and the resident manager's office. Ninety-two units will be rent restricted for 55 years by a Redevelopment Agency (60 units) or Housing Commission (32) regulatory agreement recorded against the property.



Redevelopment Agency

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City Planning & Community Investment



In light of the extreme conditions of the current financial market, the ability of Wakeland to attract a 4% tax credit investor to this project speaks well for its reputation in the development community and the viability of this project. In order to reflect the new terms and underwriting criteria required by the Tax Credit Equity Investor (Union Bank) and the Construction Lender/Senior Lender (U.S. Bank), the proposed First Implementation Agreement includes, but is not limited to, the following revisions to the OPA for Board consideration:

1. Revised definition of “Permitted Transfer” in Section 102 of the OPA by providing that the Agency receive at least fourteen (14) days advance written notice prior to any withdrawal, removal or replacement of any limited partner of Owner’s limited partnership, in lieu of the require that such substitute limited partner be “reasonably acceptable” to the Agency as set forth in subsection (g) of the definition.
2. Revised definition of “Operating Expenses” in the Agency Promissory Note (and other OPA attachments as necessary) to include (i) asset management fees or similar fees paid to any partner of the Borrower and (ii) any Deferred Developer Fee, as the project was underwritten by all sources of funds.
3. An increase in the cap of the Asset Management Fee set forth in the Method of Financing (Attachment No. 3 to the OPA) from \$17,500 to \$30,000 in the first year in order to incorporate the underwriting requirements of the Tax Credit Equity Investor.
4. Revised Section 320 of the OPA to provide the Tax Credit Equity Investor with additional cure rights, including the tolling of the relevant cure period, if an event of default can only be cured by the removal of the General Partner and the Tax Credit Equity Investor is diligently pursuing the same.
5. Revised Section 321 of the OPA relating to the Agency’s post-foreclosure rights in order to protect both (i) the Construction Lender’s ability to sell the property and recover on its debt and (ii) protect the Agency’s investment in the property.
6. Revised Construction Lender’s cure rights in the event of a bankruptcy, injunction or similar proceeding against the Developer or the general partner of the Developer.

The proposed First Implementation to the OPA also includes amendments to the Schedule of Performance, Method of Financing, Promissory Note, Notice of Affordability Restrictions, Monitoring Agreement and Agreement Affecting Real Property to reflect the current circumstances of the project.

The modifications have been analyzed by Agency staff, the Agency’s economic consultant, David Paul Rosen & Associates, and by Agency special counsel, Kane, Ballmer & Berkman. It has been determined that these recommended changes will not limit the Agency’s ability to achieve the original goals and intent of the OPA, which is to assist with the rehabilitation of 92 rental units, restrict the rents on said units so that they remain available to very low and low income households and protect the Agency’s investment in the event of Developer default.

In consideration for the revisions contained in the proposed First Implementation Agreement, the Developer shall work towards increasing the scope of development for the project by providing additional amenities at no additional cost to the Agency.

Development Team

Role	Company	Ownership
Managing General Partner	Wakeland Village Green Apartments, LLC Contact: Jack Farris	Wakeland Village Green Apartments, LP
Administrative General Partner and Sole Member	Wakeland Housing & Development Corporation Contact: Ken Sauder	Wakeland Housing & Development Corporation
Construction Loan	US Bank National Association Contact: Paul Shipstead	U.S. Bank, N.A.
Limited Partner/Tax Credit Investor -	Union Bank Contact: Brian Roberts	Union Bank
Relocation Consultant	Myers & Associates Contact: Mecky Myers	Mecky Myers
Financial Advisor	Ross Financial Services Contact: Mr. Peter Ross	Peter Ross
Bond Counsel	Quint & Thimmig Contact: Paul Thimmig	Quint & Thimmig, LLP
Property Management	The John Stewart Company Contact: Lori L. Horn	The John Stewart Company

Project

Summary	
Type of Housing	Multiple-Family – Rental
Land Area	6.78 acres or 295,337 sf (3 parcels)
Gross Building Area	40,365 sf (excluding parking)
Total Number of Units	92 (excluding manager & office/satellite units)
Project Density	14 units/acre
Number of Affordable Units	2-bedroom: 78
	3-bedroom: 14
Income Restrictions	10 @ 50 % AMI
	82 @ 60 % AMI

Affordable Unit Summary

Number of Bedrooms	Restricted Income Level	Number of Units	(Gross) Maximum Rent [2009 Levels]
2 Bedrooms	RA – 50% AMI	8	\$843
2 Bedrooms	RA – 60% AMI	50	\$1,011
2 Bedrooms	HC – 60% AMI	20	\$1,114
3 Bedrooms	RA – 50% AMI	2	\$936
3 Bedrooms	HC – 60% AMI	12	\$1,288

Note: RA is Redevelopment Agency restricted and HC is Housing Commission restricted.

FISCAL CONSIDERATIONS:

The revised, estimated total development cost is \$19,694,257 (\$214,068 for each unit) which includes capitalized reserves.

The following table outlines the proposed permanent sources and uses of funds (rounded):

Sources	Amount	Uses	Amount
US Bank <i>(construction/senior loan)</i>	\$ 6,550,822	Acquisition	\$ 11,591,493
Union Bank <i>(tax credit equity)</i>	\$ 4,452,230	Rehabilitation Costs	\$ 3,594,281
Redevelopment Agency	\$ 5,788,475	Design/Engineering/Permits	\$ 291,500
San Diego Housing Commission	\$ 2,165,067	Financing Costs	\$2,177,265
Deferred Developer Fee & Project Income	\$ 529,136	Developer Fee	\$1,200,000
Deferred Payment of Debt	\$ 176,316	Soft Costs and Contingency	\$ 866,664
Solar Tax Credits and/or Rebates	\$ 59,157		
Total	\$19,721,203		\$19,721,203

The proposed Redevelopment Agency financing for the Project remains in the amount not to exceed \$5,788,475 and is still in the form of a long-term (55-year) residual receipts loan to cover direct costs. The amount represents a maximum subsidy of \$ 62,918 per unit or \$29,234 per bedroom.

It merits mentioning that there has been a reduction in the estimated project cost since the OPA was approved on October 28, 2009. The Method of Financing includes a provision stating that,

in the event actual rehabilitation costs are less than budgeted costs, 50% of the resulting cost savings shall be paid to the Agency to reduce the principal amount of the Agency Loan. The cost savings determinations will be examined after the rehabilitation is completed, subject to the terms in the Method of Financing.

ENVIRONMENTAL IMPACTS:

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA guidelines Section 15301 (Existing Facilities).

PREVIOUS AGENCY and/or COUNCIL ACTIONS:

On September 15, 2009, the Housing Authority held the second TEFRA hearing and authorized the bond issuance for the Village Green Apartments, via resolution R-305258.

On October 28, 2008, the Agency approved the OPA with Wakeland Village Green Apartments, LP, via resolution R-04342.

KEY STAKEHOLDERS and PROJECT IMPACT:

The Village Green Apartments are located within the Rolando Neighborhood which is within the Eastern Area of the Mid-City Communities Plan.

The Redevelopment Agency and the Housing Commission will record 55-year rent restrictions against the property. Because of the CCRL requirements, the rents for Agency units (60) will be more restrictive than the rents of Housing Commission units (32). This Project will increase the supply of affordable housing for low-income residents within the Crossroads Project Area and it will create 80 full-time equivalent construction/contractor jobs during the rehabilitation.

Project Schedule

Subject to the Agency's approval of the proposed First Implementation to the OPA, the estimated project schedule is as follows:

Loan Funding	November 2009
Rehabilitation – Start	December 2009/January 2010
Rehabilitation – Completion	February 2011/March 2011

OTHER RECOMMENDATIONS:

On September 25, 2008, the Agency's Affordable Housing Collaborative Executive Loan Committee (ELC) voted 4-0 in favor of the Project's proposed financing structure.

COMMUNITY PARTICIPATION & PUBLIC OUTREACH EFFORTS:

The Crossroads Project Area Committee (PAC) voted to recommend the Agency approve the project and use project area housing funds. The vote was 8-4-1 on August 28, 2008.


ALTERNATIVE:

Do not approve the proposed First Implementation to the OPA. This action would retain the current terms of the OPA and could potentially lead to the project falling outside of the underwriting criteria for Union Bank and U.S. Bank.

Respectfully submitted,



Janice L. Weinrick
Deputy Executive Director
Redevelopment Agency



Approved: William Anderson
Assistant Executive Director
Redevelopment Agency

Attachments: 1. First Implementation to the Owner Participation Agreement

**FIRST IMPLEMENTATION
TO THE OWNER PARTICIPATION AGREEMENT
(VILLAGE GREEN APARTMENTS)**

This First Implementation to the Owner Participation Agreement (“First Implementation Agreement”) is entered into as of _____, 2009, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (“Agency”) and WAKELAND VILLAGE GREEN APARTMENTS, L.P., a California limited partnership (“Owner”).

For and in consideration of the mutual covenants and conditions set forth herein, the Agency and the Owner hereby agree as follows:

RECITALS

A. The Agency and Owner have entered into that certain Owner Participation Agreement dated November 25, 2008 (“Agreement”), which is incorporated herein by this reference. Any capitalized term contained herein that is not otherwise defined shall have the meaning attributed to such term in the Agreement.

B. The purpose of the Agreement is to effectuate the Redevelopment Plan for the Crossroads Redevelopment Project by providing part of the financing for the rehabilitation of the Property (as legally defined in Attachment No. 2 of the Agreement and incorporated herein by this reference) and the use of the Property as a residential rental development consisting of ninety-two (92) rental apartments, one (1) manager’s unit, one (1) manager’s office and community room (the “Project”). The ninety-two (92) rental apartments will include housing that is affordable to Low Income and Very Low Income persons (as defined in the Agreement).

C. Due to unexpected changes in the financial markets, adjustments to the financing of the Project are necessary to reflect new terms and underwriting criteria required by the construction/permanent lender and the Tax Credit Equity Investor.

D. The purpose of this Agreement is to effectuate and amend the Agreement by providing for (i) an increase to the Asset Management Fee, and (ii) modifications to certain other obligations and rights of the parties, all on the terms and conditions as set forth below.

Now, therefore, the Agency and Owner agree as follows:

SECTION 1 PURPOSE OF FIRST IMPLEMENTATION AGREEMENT

The purposes of this First Implementation Agreement include amending the terms of the Agreement to accomplish the following objectives:

1. Amend the Method of Financing (Attachment No. 3 to the Agreement) to reflect updated Rehabilitation Costs, updated construction and permanent loan amounts and to clarify the Agency’s share of Residual Receipts; and

2. Amend the Schedule of Performance (Attachment No. 5 to the Agreement) to revise certain dates for performance of obligations under the Agreement; and

3. Amend the Agency Loan Promissory Note (Attachment No. 8 to the Agreement) to clarify the Agency's share of Residual Receipts, to update construction and permanent loan amounts and to revise the definition of "Operating Expenses" therein to include the Deferred Developer Fee and Asset Management Fees; and

4. Amend the Agreement to reflect modifications to certain other obligations of the parties.

SECTION 2 AMENDMENTS TO AGREEMENT

Agency and Owner hereby agree as follows:

1. Definitions. The definitions of "Bond," "Bond Loan" or "Construction Loan", "Permanent Loan," "Senior Loan," and "Title Company" as contained in Section 102 of the Agreement titled, "Definitions" are hereby deleted and replaced in their entirety as follows:

"Bond" shall mean the tax exempt Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds constituting the mortgage revenue bonds issued for the Project as described in the Amended Method of Financing attached hereto as Attachment No.3.

"Bond Loan" shall mean the first priority construction period loan and Permanent Loan funded with proceeds of the Bond used to pay a portion of the acquisition costs and Rehabilitation Costs in the approximate amount set forth in the Amended Method of Financing, to be made to Owner at the time of the Bond Loan Closing from the proceeds of the Bonds, secured by the Bond Loan Deed of Trust.

"Permanent Loan" shall mean a permanent loan derived from the proceeds of the Bond Loan in the amount set forth in the Amended Method of Financing that is senior in priority to the Agency Loan Deed of Trust and the Housing Commission Loan Deed of Trust.

"Senior Loan" shall mean the Bond Loan and any other loan to finance the acquisition and rehabilitation of the Project that is secured by a deed of trust to which the Agency has agreed to subordinate the lien of the Agency Loan Deed of Trust.

"Title Company" shall mean Stewart Title of California, Inc., or another title insurance company mutually acceptable to Agency and Owner.

2. Permitted Transfer. Paragraph g. of the definition of Permitted Transfer located in Section 102 of the Agreement titled, Definitions, is deleted in its entirety and replaced with the following:

“g. The withdrawal, removal and/or replacement of any limited partner of Borrower’s limited partnership pursuant to the terms of the Borrower’s partnership agreement shall not constitute a default under this Agreement or any of the Agency Loan Documents, nor shall such actions accelerate the maturity of the Agency Loan, provided (i) such substitute limited partner is selected with reasonable promptness and (ii) Agency receives at least fourteen (14) days advance written notice of any substitution of a limited partner.”

3. Property. Section 104 of the Agreement titled, “The Property” is hereby amended by adding the name “Village Green Apartments” in the blank space at the end of the last sentence.

4. Submission of Evidence of Financing. Section 203 of the Agreement titled, “Submission of Evidence” is hereby amended to delete the amount of “\$6,757,788” contained in Section 203 a. (a) and replaced with “\$9,664,172.”

5. Notice of Default to Mortgagees; Right of Mortgagees to Cure Defaults. Section 320 or the Agreement titled, “Notice of Default to Mortgagees; Right of Mortgagees to Cure Defaults” shall be amended as follows:

a. To add the phrase, “but not to exceed one hundred and eighty (180) days” at the end of the penultimate clause of the fourth (4th) sentence to read, “such Mortgagee shall have additional time as reasonably necessary to remedy or cure such default with diligence and continuity, but not to exceed one hundred and eighty (180) days;.....”

b. To include the following language after the fourth (4th) sentence of the paragraph:

“If such default shall be a default which can only be remedied or cured by such Tax Credit Equity Investor by the removal of the General Partner in accordance with the Partnership Agreement, such Tax Credit Equity Investor, after reasonable approval by the Agency Executive Director or designee (which approval shall not be unreasonably withheld), shall proceed with the removal of the General Partner with diligence and continuity and shall remedy or cure such default within ninety (90) days after obtaining the control of Owner; provided that in the case of default which cannot with diligence be remedied or cured, or the remedy or cure cannot be commenced within such ninety (90) day period, such Tax Credit Equity Investor shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity, but not to exceed one hundred and eighty (180) days; and provided further that such Mortgagee shall not be required to remedy or cure any non-curable default of the Owner.”

6. Failure of Mortgagee to Complete Improvements. The language in Section 321 of the Agreement titled, "Failure of Mortgagee to Complete Improvements" is hereby deleted in its entirety and replaced with the following:

"In any case where, six (6) months after default by the Owner, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Property (or portion thereof) has not elected to complete construction of the Improvements, or if it has elected to complete the Improvements but has not proceeded diligently with construction, the Agency may purchase the mortgage, deed of trust or other security interest by payment to the holder of the full amount of the unpaid principal debt, plus any accrued and unpaid interest and other charges secured by the mortgage instrument approved by the Agency."

7. Right of the Agency to Cure Defaults. The first sentence of the only paragraph in Section 322 of the Agreement, titled, "Right of the Agency to Cure Defaults" is hereby deleted in its entirety and replaced with the following:

"In the event of a default or breach by the Owner of a Permitted Mortgage prior to recordation of the Release of Construction Covenants, and the Mortgagee has not commenced to complete the development, the Agency may cure the default at any time prior to completion by a Senior Lender of any foreclosure under its deed of trust securing the Senior Loan."

8. Defaults-General. Section 501 of the Agreement titled, "Defaults-General" is hereby amended to add the following language at the end of subsection 501 e.:

"Additionally, in the event the Senior Lender or Tax Credit Equity Investor is precluded from curing a non-monetary default hereunder due to a bankruptcy, injunction, or similar proceeding by or against Owner or the general partner of Owner, the Agency agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Senior Lender or Tax Credit Equity Investor is so precluded from acting, not to exceed ninety (90) days, provided such Senior Lender and Tax Credit Equity Investor are otherwise in compliance with the foregoing provisions. In no event shall the Agency be precluded from exercising remedies if its rights become or are about to become materially jeopardized by any failure to cure a default."

9. Schedule of Performance. The Agreement is hereby amended by changing all references to the "Schedule of Performance" (Attachment No. 5 to the Agreement) to the "Second Amended Schedule of Performance." The "Second Amended Schedule of Performance" is attached hereto as Exhibit "A" and incorporated herein by this reference.

10. Method of Financing. The Agreement is hereby amended by changing all references to the "Method of Financing" (Attachment No. 3 to the Agreement) to the "Amended

Method of Financing.” The “Amended Method of Financing” is attached hereto as Exhibit “B” and incorporated herein by this reference.

11. Agency Loan Promissory Note. The Agreement is hereby amended by changing all references to the “Agency Loan Promissory Note” (Attachment No. 8 to the Agreement) to the “Form of Amended Agency Loan Promissory Note.” The “Form of Amended Agency Loan Promissory Note” is attached hereto as Exhibit “C” and incorporated herein by this referenc

12. Notice of Affordability Restrictions. The Agreement is hereby amended by changing all references to the “Notice of Affordability Restrictions” (Attachment No. 13 to the Agreement) to the “Form of Amended Notice of Affordability Restrictions.” The “Form of Amended Notice of Affordability Restrictions” is attached hereto as Exhibit “D” and incorporated herein by this reference.

13. Monitoring Agreement. The Agreement is hereby amended by changing all references to the “Monitoring Agreement” (Attachment No. 19 to the Agreement) to the “Form of Amended Monitoring Agreement.” The “Form of Amended Monitoring Agreement” is attached hereto as Exhibit “E” and incorporated herein by this reference.

14. Agreement Affecting Real Property. The Agreement Affecting Real Property (Attachment No. 6 to the Agreement) is hereby amended as provided in the “Form of the Amendment to the Agreement Affecting Real Property.” The “Form of the Amendment to the Agreement Affecting Real Property” is attached hereto as Exhibit “F” and incorporated herein by this reference.

SECTION 3 FURTHER CHANGES

1. The Agency Executive Director or designee is authorized to make such further changes to the documents and instruments attached to the Agreement and to this First Implementation Agreement as may be necessary or appropriate to effectuate the Agreement, as amended by this First Implementation Agreement, so long as such changes do not materially impair the Agency’s interests.

2. The Agency Executive Director or designee is authorized to execute such further instruments and enter into such additional agreements, including but not limited to indemnification of title company agreements, estoppel certificates and similar closing documents, as may be necessary or appropriate to effectuate the Agreement, as amended by this First Implementation Agreement.

SECTION 4 MISCELLANEOUS

1. The parties agree to execute such other instruments, agreements and amendments to documents as may be necessary or appropriate to effectuate the Agreement as amended by this First Implementation Agreement.

2. Except as expressly provided otherwise in this First Implementation Agreement, the Agreement remains in full force and effect, enforceable in accordance with its terms.

3. This First Implementation Agreement is executed in six (6) duplicate originals, each of which is deemed to be an original.

4. This First Implementation Agreement shall become effective upon its execution by the Agency Executive Director or designee.

5. This First Implementation Agreement, when executed by Owner and delivered to the Agency, must be authorized, executed and delivered by the Agency within forty-five (45) days after such delivery to the Agency, or this First Implementation Agreement may be terminated by the Owner upon written notice to the Agency.

[Signatures on Next Page]

IN WITNESS WHEREOF, the Agency and the Owner have executed this First Implementation Agreement.

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

By: _____

Its: _____

APPROVED AS TO FORM AND LEGALITY:
JAN I. GOLDSMITH
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

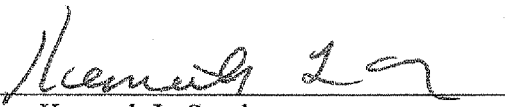
By: _____
Murray O. Kane

[signatures continued on the following page]

WAKELAND VILLAGE GREEN APARTMENTS, L.P.
A California limited partnership

By: Wakeland Village Green Apartments, LLC,
a California limited liability company,
Its Managing General Partner

By: Wakeland Housing and Development
Corporation, a California nonprofit public
benefit corporation its Manager and Sole
Member

By: 
Kenneth L. Sauder
President and CEO

**SECOND AMENDED
SCHEDULE OF PERFORMANCE**

(Village Green Apartments)

I. GENERAL PROVISIONS

- | | |
|--|---|
| 1. <u>Execution of OPA by the Agency.</u> The Agency shall hold a public hearing on the OPA, and, subject to making the requisite findings, authorize execution and execute and deliver the OPA to the Owner. | Completed. |
| 2. <u>Submission - Architect, Landscape Architect and Civil Engineer.</u> The Owner shall submit to the Agency for approval the name and qualifications of its Architect, Landscape Architect and Civil Engineer. | Not later than execution of the OPA by Owner. |
| 3. <u>Approval - Architect, Landscape Architect and Civil Engineer.</u> The Agency shall approve or disapprove the Architect, Landscape Architect and Civil Engineer. | Concurrently with execution of the OPA by Owner. |
| 4. <u>Submission of Marketing Plan.</u> Owner shall submit Marketing Plan that incorporates, among other things, a plan to prohibit preferential or special treatment for family members or employees of Owner. | Not less than two (2) months prior to the Closing Date. |
| 5. <u>Approval of Marketing Plan.</u> Agency shall review and approve or disapprove Owner's Marketing Plan and shall notify the Owner. | Not later than one (1) month after receipt of each such submission of Marketing Plan by the Agency. |
| 6. <u>Submission of Contract with Housing Commission and/or Agency for Monitoring.</u> Owner shall submit to Agency a copy of an executed Agreement between Owner and the San Diego Housing Commission and/or Agency for monitoring of Affordable Housing rents. | Not less than two (2) months prior to the Closing Date. |

II. FINANCING COMMITMENTS

1. Tax Exempt Bond Allocation. The Owner shall demonstrate to the Agency that it has timely applied to the California Debt Limit Allocation Committee ("CDLAC") for an allocation of tax-exempt qualified private activity bond authority, and submit to the Agency evidence of CDLAC allocation.

Application due November 2008 for the January 2009 allocation meeting of CDLAC.

Note: In the event Owner is unsuccessful in obtaining an allocation in the November 2008 application round, Owner shall timely apply to CDLAC for the next allocation meeting, requiring an amendment of the Schedule of Performance.

2. Evidence of Financing. The Owner shall submit to the Agency evidence of financing described in the Method of Financing.
3. Approval of Financing. The Agency shall approve or disapprove the evidence of financing.

Not later than Two (2) months prior to the Closing Date.

No less than One (1) month after submittal.

III. CLOSING AND CONSTRUCTION

1. Submission - Final Construction Drawings and Specifications. The Owner shall prepare and submit to the Agency for approval the Final Construction Drawings and Specifications.

Not later than Four (4) months prior to the start of Construction by Owner.

Note: These drawings will be submitted in normal increments as they are completed.

2. Approval - Final Construction Drawings and Specifications. The Agency shall approve or disapprove the Final Construction Drawings and Specifications.

No less than One (1) month after submittal.

Note: These drawings will be approved in increments as they are submitted.

- | | |
|---|---|
| 3. <u>Closing Date Conditions</u> . Owner shall satisfy all conditions precedent to the Closing. | Not later than One (1) month prior to the Closing Date. |
| 4. <u>Equal Opportunity Contract Program</u> . Developer shall contact the City's Equal Opportunity Contracting Program for a determination of compliance with applicable laws and regulations. | Letter of Compliance stating Owner's compliance with applicable laws and regulations shall be submitted to the Agency not less than ten (10) calendar days prior to the commencement of construction. |
| 5. <u>Closing Date</u> . | On or before June 30, 2010. |
| 6. <u>Commencement of Construction</u> . The Owner shall commence construction of the Improvements. | Not later than Three (3) months after the Closing Date. |
| 7. <u>Completion of Construction</u> . The Owner shall complete construction of the Improvements. | Not later than Fourteen (14) months after the commencement of construction. |

NOTES:

1. Deadlines set forth in this Second Amended Schedule of Performance are subject to the enforced delay provisions of Section 602 of the OPA.
2. Extensions may be approved in writing pursuant to Section 309 of the Agreement.
3. Descriptions of items of performance and deadlines in this Second Amended Schedule of Performance are not intended to supersede more complete descriptions in the text of the OPA or any amendments thereto; and in the event of any conflict between the text of the OPA and this Schedule, the text of the OPA shall govern.

AMENDED METHOD OF FINANCING

This is the Method of Financing attached to the Owner Participation Agreement (the "OPA") entered into between the Redevelopment Agency of the City of San Diego (the "Agency") and Wakeland Village Green Apartments, L.P. ("Owner" or "Borrower"), pertaining to the acquisition and rehabilitation of ninety three (93) residential units on the Property described in the OPA. The Project shall contain 92 units that shall be rented exclusively, at CRL Affordable Rent and TCAC Affordable Rent, to persons and families of Low and Very Low Income. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA.

The Project will be financed by a combination of bond-financed loans, the Agency Loan, the City of San Diego Housing Commission Loan, Solar Tax Credits and Rebates and Developer Equity derived from the syndication of the Four Percent Tax Credit. For purposes of this Agreement, "Four Percent" refers to the applicable percentage of the qualified basis for a building which is federally subsidized, as provided in Internal Revenue Code Section 42(b)(1).

The Agency Loan will consist of the Agency Residual Receipts Loan in an amount not to exceed \$5,788,475, which shall include approximately \$5,761,475 to be disbursed during the construction period and the balance of approximately \$27,000 to be disbursed following Completion. The Agency Residual Receipts Loan shall be repaid during the Permanent Period from Residual Receipts pursuant to Section 2.2 b. herein and the Agency Note.

If the Agency Executive Director or designee determines that it is necessary to revise the terms of this Method of Financing in order to accomplish the Project objectives and protect the Agency's investment, this Method of Financing may be amended by the Agency Executive Director or designee to reflect such revisions, provided, however, that such amendment will be subject to, and conditioned on, such further review and approval by the Agency Board as is needed to satisfy applicable law and Agency policy and procedures.

Borrower will acquire the Property prior to or concurrently with the closing of the Bond Financing.

1. Total Acquisition and Rehabilitation Costs. The parties estimate that the cost of acquiring and rehabilitating the Property will be approximately \$19,721,203 to be provided as follows in Section 2 of this Method of Financing.

2. Sources of Financing. The parties anticipate that the costs of acquiring the Property and rehabilitating and constructing the Improvements thereon shall be financed with a combination of loans and Owner's equity, as set forth in the following chart and as described below:

a.	<u>Construction Period Financing</u>	
	Tax Credit Equity	\$ 890,294
	Project Income	\$ 229,136
	Bond Loan (US Bank)	\$ 9,664,172
	San Diego Housing Commission	\$ 2,115,067
	Developer Fee Payable at Permanent Phase, plus Deferred Operating Reserve	\$ 176,316
	<u>San Diego Redevelopment Agency</u>	<u>\$ 5,761,475</u>
	TOTAL SOURCES:	\$ 18,836,460
b.	<u>Permanent Financing</u>	
	Tax Credit Equity	\$ 4,452,230
	Project Income	\$ 229,136
	Bond Loan (US Bank)	\$ 6,550,822
	San Diego Housing Commission	\$ 2,165,067
	Solar Rebates	\$ 59,157
	Deferred Developer Fee	\$ 300,000
	Deferred Payment of City Debt	\$ 176,316
	<u>San Diego Redevelopment Agency</u>	<u>\$ 5,788,475</u>
	TOTAL SOURCES:	\$ 19,721,203

2.1. CONSTRUCTION PERIOD FINANCING

- a. U.S. Bank Loan. A loan from U.S. Bank National Association, (the “US Bank Loan”) in the original principal aggregate amount of approximately \$9,664, 172. The US Bank Loan will convert to a first priority amortized permanent loan in such amount as set forth in Section 2.2. a. herein. The U.S. Bank Loan is also referred to in this agreement as the “Senior Loan” or the “Bond Loan.”
- b. Agency Loan. A residual receipts loan from the Agency (the “Agency Loan”) in the original principal aggregate amount of \$5,788,475, subject to the following:
- (1) Upon satisfaction of those conditions precedent to Closing set forth herein at Paragraph 6 below, the Agency Loan will be advanced to the Borrower, less the amount of \$27,000 retained until Completion.
 - (2) The term of the Agency Loan shall be fifty-five (55) years, commencing upon the date of the issuance of the certificate of occupancy for the Improvements by the City of San Diego (the

“Occupancy Date”) or the recordation of the Release of Construction Covenants pursuant to the OPA, whichever is later;

- (3) The Agency Loan shall be secured by a deed of trust (the “Agency Deed of Trust”) which shall be in second priority, subordinate only to the Agency approved Bond Loan Deed of Trust and Bond Regulatory Agreement Loan.
- (4) The outstanding balance of the Agency Loan shall bear simple interest at the rate of three percent (3.0%) per annum.
- (5) The Agency Loan shall be repaid, to the extent of the Agency's Share of Residual Receipts. The Agency's Share of Residual Receipts shall be 73% of the greater of 50% of the total Residual Receipts or \$35,217. To the extent fifty (50%) percent of any year's Residual Receipts do not cover the minimum annual payment, the Agency and the Housing Commission shall receive one hundred (100%) percent of the Project's Residual Receipts up to \$35,217.
- (6) The Agency Loan shall be subject to repayment or reduction upon the closing of the Permanent Loan (whether by conversion of the Construction Loan to a Permanent Loan, refinancing of the Construction Loan, recordation of a Permanent Loan Deed of Trust or otherwise) in an amount equal to the Agency's share of any “Cost Savings” or and in an amount equal to any “Additional Proceeds” (as provided, respectively, in paragraphs 2.1 d. and 2.2 e. below).
- (7) At the Agency Loan Closing, the obligation to repay the Agency Loan shall be evidenced by an Agency Promissory Note, in the approximate amount of \$5,788,475.
- (8) Upon the Agency Loan Closing the Agency shall, if required as a part of the approved evidence of financing, enter into an Intercreditor Agreement with Bond Financing Lender in form and substance reasonably approved by the Executive Director or designee and Agency legal counsel providing for the disbursement of the Agency Loan in accordance with this Method of Financing.
- (9) Notwithstanding any other provisions of this Agreement, the parties acknowledge that the Agency Loan is intended to be gap assistance, not to exceed the amount needed to bridge the gap between the total Rehabilitation Costs (as defined in the OPA) and the maximum loans obtained by Owner plus Owner's Equity, but in

any event not to exceed the respective dollar amounts set forth in the Method of Financing. The proceeds of the Agency Loan shall be used exclusively to pay Rehabilitation Costs identified in the Project Budget (Attachment No. 7). In the event that both the actual amount of the Rehabilitation Costs is less than \$6,929,710, and the permanent financing sources for Rehabilitation Costs are greater than the actual amount of the Rehabilitation Costs, then the Cost Savings (as defined below) shall be applied to reduce the principal amount of the permanent Agency Loan (\$5,788,475) on a pro rata basis with payments due for the Deferred Developer Fee (the pro rata percentage shall be 50% for the Agency Loan and 50% for the Deferred Developer Fee) as provided in paragraph (d) below, and the Additional Proceeds (as defined below) shall be applied first to pay the Deferred Developer Fee, and then to repay the Agency Loan, as provided in paragraph (e) below. Except as otherwise provided by the OPA, the Agency Loan shall not be subordinated to such increased amount of any permanent financing sources beyond the sources and respective amounts allowed by the OPA and this Method of Financing, without the prior written approval of the Agency.

- c. Owner Equity. Equity from the Owner (the "Owner Equity") consisting of the following:
- (1) Approximately \$4,452,230, to be provided by the Tax Credit Equity Investor, derived from Low Income Housing Tax Credits, which shall include approximately \$887,888 to be disbursed during the construction period and the balance to be disbursed following Completion;
 - (2) A deferred portion of the Developer Fee, in the amount of approximately \$300,000 (the "Deferred Developer Fee"), constituting that portion of the Developer Fee to be paid to Developer from "Additional Proceeds" and/or "Cost Savings" as discussed in paragraphs 2.1 d. and 2.2 e. respectively. A total developer fee of \$1,200,000 shall be paid. Of that amount the Owner shall draw \$300,000 at the closing of acquisition to reimburse it for administrative costs during the predevelopment period. A \$300,000 Deferred Developer Fee and remaining \$600,000 shall be paid pursuant to the terms of this Method of Financing, San Diego Housing Commission Loan Documents and the requirements of the Tax Credit Investor at the conversion to Permanent Financing.

- (3) Solar Tax Credits and Rebates in the amount of approximately \$59,157; and
 - (4) Owner shall be responsible for providing any additional funds which may be needed to pay for cost overruns and contingencies not otherwise funded by the sources of Construction Financing described above.
- d. Cost Savings. The following provision setting forth the right of the Agency to receive any "Cost Savings", as defined below, shall be subject to the right of the Owner to receive 50% any Cost Savings to be used toward the payment of the Deferred Developer Fee. In the event actual Rehabilitation Costs, as determined by a cost certification performed not later than 60 days following completion of Rehabilitation, at Borrower's expense, by a certified public accountant acceptable to the Agency, are less than \$6,929,710, 50% of the resulting cost savings shall be paid to the Agency to reduce the principal amount of the Agency Loan and 50% of the resulting cost savings shall be paid used solely toward the payment of the Deferred Developer Fee ("Cost Savings").

2.2 PERMANENT SOURCES OF FINANCING

- a. A permanent loan ("Permanent Loan") derived from the proceeds of the Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds (the "Bonds") in the approximate original principal amount of \$6,550,822, secured by one or more senior priority deeds of trust (the beneficiaries of which shall include U.S. Bank National Association, any credit enhancer or permanent financing guaranty facility, referred to herein collectively as the "Senior Permanent Lenders", and, together with the U.S. Bank National Association, described above, referred to as the "Senior Lenders").
- b. The Agency Loan in the approximate amount of \$5,788,475, as described in paragraph b. of Section 2.1, above (subject to adjustment to reflect any Cost Savings, described in paragraph d. of Section 2.1 above, or Additional Proceeds described in paragraph f. of this Section 2.2).
- c. A loan in the approximate amount of \$2,165,067 from the City of San Diego Housing Commission secured by a third priority deed of trust (the "Housing Commission Loan").
- d. Owner Equity, as described in paragraph c. of Section 2.1, above.

- e. Additional Proceeds. To the extent Borrower obtains (i) a Permanent Loan in a principal amount in excess of \$6,550,822, (ii) any additional grant funds, and/or (iii) equity raised from the sale of Low Income Housing Tax Credits in excess of \$4,452,230, the Borrower shall apply an amount equal to 100% of the sum of (i) any Permanent Loan proceeds thereof in excess of \$6,550,822 plus, (ii) any additional grant funds plus, (iii) any equity raised from the sale of Low Income Housing Tax Credits to the extent such equity is in excess of \$4,452,230 (the "Additional Proceeds"), (A) first to pay any outstanding Deferred Developer Fee, then (B) 100 % of all remaining Additional Proceeds shall be used to pay accrued interest on, and then reduce the principal amount of the Agency Loan, except to the extent such Additional Proceeds are needed to pay for cost overruns for which no other funds are available. If at any time Borrower refinances the initial Permanent Loan, Borrower shall apply the proceeds of any such refinancing in excess of the amount needed to pay in full the then-current balance of the Permanent Loan, first to pay any outstanding Deferred Developer Fee, then 100 % of all remaining Additional Proceeds shall be used to pay accrued interest on, and then reduce the principal amount of the Agency Loan.

2.3 MINIMUM RESERVES AND GUARANTIES.

Owner agrees to the following reserves and guaranties which will be executed in favor of the Limited Partner of the Owner in a form reasonably approved by the Agency Executive Director. In the event that any of the following guaranty agreements or minimum reserve requirements are not diligently enforced by the Limited Partner or are modified or discontinued for any reason (including, without limitation, a change of parties or a refinancing of the Project), Owner shall execute and shall use its best commercial efforts to cause the necessary entities to execute, such documentation as may be necessary for the Agency to directly enforce substantially similar guaranty agreements and minimum reserve requirements. The reserve requirements and guaranty agreements ("Guaranty Agreements") are summarized as follows:

- a. A Development Deficit Guaranty Agreement pursuant to which Guarantor thereunder agrees, among other things, to: (a) pay any "Development Deficits" (as that term is defined therein) which may arise during the construction of the Project, (b) buy out the interest of the Limited Partner (at the request of the Limited Partner), and (c) pay all expenses of operating and maintaining the Project in order for the Project to achieve "Break Even Operations" (as that term is defined therein).
- b. An Operating Deficit Guaranty Agreement pursuant to which Guarantor thereunder agrees to, among other things, cover any "Operating Deficits" (as that term is defined therein) of the Property during the "Guaranty Period" (as that term is defined therein).

- c. A Replacement Reserve Guaranty Agreement pursuant to which Guarantor thereunder agrees to, among other things, guaranty minimum reserves in the amount required by the Limited Partnership Agreement.
- d. An Operating Deficit Escrow Agreement pursuant to which Guarantor thereunder agrees to, among other things, secure a portion of their obligations under the Operating Deficit Guaranty Agreement by making a cash deposit into an escrow account established for that purpose.

3. Project Budget. The parties anticipate that all Rehabilitation Costs shall be as set forth in the Project Budget attached to the OPA as Attachment No. 7 (the "Project Budget"), incorporated herein by this reference. Any change order in excess of Fifty Thousand Dollars (\$50,000) or any amendment to the total Project Budget (collectively referred to as a "Revision") shall require the approval of the Executive Director or designee in addition to any approval required by any Senior Lender; provided that the principal amount of the Agency Loan shall not be increased without the express approval of the governing body of the Agency in its sole and absolute discretion. Except as provided in the previous sentence, the Executive Director or designee shall not unreasonably withhold approval of any requested Revision for which the Senior Lender's approval is not required, under the terms of the Senior Loan documents, or which has been approved by the Senior Lender if, within five (5) working days after receipt of the request, Agency receives such explanation and/or back-up information as was received and relied upon by the Senior Lender in connection with its approval of the Revision, and if the following conditions are satisfied:

- a. to the extent the Revision is limited to a reallocation of budgeted funds among Project Budget line items without any increase in the total Project Budget or the Agency Loan, (i) the funds in the line item(s) to be reduced remain sufficient for completion of the Project, and (ii) the requested increase in one or more line item(s) is to be used to pay approved costs; and
- b. to the extent the Revision involves an increase in the total Project Budget, (i) additional funds in an amount equal to the increase in the total Project Budget will be provided by Owner or the Senior Lender and (ii) the requested increase in the Project Budget is to be used to pay approved costs.

Upon approval of any Revision, the Project Budget shall be replaced by the approved revised Project Budget.

4. Evidence of Financing. The sum of the sources of Construction financing described in Section 2.1, above, shall be sufficient at all times to pay all Rehabilitation Costs as set forth in the most recently approved Project Budget, and the sum of the sources of Permanent financing described in Section 2.2, above, shall be at least equal at all times to the sum of the Construction-period sources of funds plus all other Rehabilitation Costs. Within the time provided

therefor in the Schedule of Performance, Owner shall submit, for approval by the Executive Director or designee, evidence of such financing, including all documents required by the U.S. Bank National Association relating to the Bond Loan and all documents evidencing the availability of permanent financing upon completion of the Project. The Executive Director or designee shall not unreasonably withhold his or her approval. Owner shall provide written certification to the Agency that such financing documents are correct copies of the actual documents to be executed by Owner on or before the Agency Loan Closing Date. To the extent that the sum of the sources of funds described in Section 2.1 above is insufficient to pay all Rehabilitation Costs, Owner shall demonstrate the availability prior to the Agency Loan Closing of increased Owner's Equity or other funds at least equal to the shortfall.

5. Subordination. The Agency Deed of Trust shall be subordinate to the Construction Loan, the Permanent Loan and any deed of trust securing any Senior Loan and any regulatory agreement to be recorded in connection with the Bonds and/or the Low Income Housing Tax Credit. The Executive Director or designee shall execute subordination agreement(s) as may be consistent with this Method of Financing and the OPA to subordinate the Agency Deed of Trust to the lien of the deed of trust securing any Construction Loan, Permanent Loan or Senior Loan, provided such subordination agreement(s) substantially conform in form and substance to the Form of Subordination Agreement attached to the OPA as Attachment No. 15. Any modifications to this Method of Financing and the OPA that do not substantially conform, in a substantive manner, with Attachment No. 15 of the OPA shall be submitted to the Agency Board for approval. Upon the reasonable request of the Tax Credit Equity Investor or a Senior Lender, Agency shall execute from time-to-time such estoppel certificates to the extent they are consistent with the terms of this Agreement.

6. Conditions Precedent to Closing

The Agency Loan Closing and disbursement of any portion of the Agency Loan, is conditioned upon the Owner taking title to the Property, those conditions set forth in Section 203 of the OPA and the occurrence of each of the following conditions on or prior to the scheduled Agency Loan Closing Date as set forth in the Schedule of Performance:

- a. Limited Partnerships. The identity of the limited partnership agreement (but only with respect to whether such limited partnership agreement is consistent with the OPA and this Method of Financing) have been approved by the Executive Director, and Owner and the limited partnerships have executed an assignment and assumption agreement in form satisfactory to the Executive Director.
- b. Title. Owner shall have taken fee title to the Property and shall have properly recorded all title and ownership documents.
- c. Title Insurance Policies. The Title Company shall be committed to issue a standard form ALTA Lender's Title Insurance Policy to the Agency in the

amount of the Agency Loan insuring the Agency Deed of Trust as a second lien on the Property subordinate to the lien of any Senior Loan.

- d. Final Working Drawings. Owner shall have submitted and Agency shall have approved final working drawings.
- e. Project Budget. Owner shall have delivered to the Agency a final project budget or any Revisions to the final Project Budget attached to the OPA which have been approved by the Executive Director or designee, demonstrating to the satisfaction of the Agency the availability of sufficient funds to pay all Rehabilitation Costs.
- f. Construction Contract. Owner shall have delivered to the Agency a general construction contract between the Owner and a licensed general contractor, covering all construction required by the OPA and the approved final working drawings, in an amount that is consistent with the final Project Budget, together with a construction schedule showing a detailed trade-by-trade breakdown of the estimated periods of commencement and completion of construction and complete fixturing of the Project, demonstrating that construction will be completed within the time provided in the Schedule of Performance.
- g. Evidence of Financing. Owner shall have obtained approval of all financing described in this Method of Financing, and the Executive Director or designee shall have approved evidence relating to the Construction Loan and Owner Equity, a commitment to fund for the Permanent Loan, a commitment to fund from the San Diego Housing Commission, a commitment to fund letter from the Tax Credit Equity Investor, written verification from Owner's solar consultant that Owner will be eligible to receive a Solar Tax Credit and Rebate upon completion of the rehabilitation of the Project (and all documents required to be executed in connection with such financing shall have been duly executed, acknowledged and delivered.
- h. Insurance. Owner shall have submitted to the Agency evidence of the Insurance Policies required by the OPA, naming as additional insureds the following:

“The City of San Diego, the Redevelopment Agency of the City of San Diego and their officers, employees, contractors and agents.”
- i. Work Force Report/EO Plan and Report. Owner shall have prepared and delivered to the Agency its Work Force Report or Equal Opportunity Plan, and Initial Equal Opportunity Report, to the extent required by OPA.

- j. Permits. Owner shall have delivered to the Agency a list of all permits required for the construction and rehabilitation of the Improvements, and shall have demonstrated that all variances, entitlements and approvals(if any)have been obtained and that all conditions for the issuance of all necessary permits have been satisfied (with the exception of payment of fees, which payment is provided for in the approved Project Budget).
- k. Owner's Formation Documents. Owner shall have delivered documentation relating to the corporate, partnership, limited liability or other similar status of Owner and its general partner(s), including, without limitation and as applicable: limited partnership agreements and any amendments thereto; articles of incorporation; Limited Liability Company Articles of Incorporation (LLC-1); Statement of Information and Operating Agreement (including any amendments thereto); copies of all resolutions or other necessary actions taken by such entity to authorize the execution of the OPA and related documents; a certificate of status issued by the California Secretary of State; and a copy of any Fictitious Business Name Statement, if any, as published and filed with the Clerk of San Diego County. (Condition is for the benefit of Agency).
- l. Recording Instructions. Escrow Agent shall have approved such supplemental recording instructions as may have been prepared on behalf of the Agency.
- m. Documents Referenced in OPA. Owner shall have submitted to Agency all documents referenced in Section 203 of the OPA.
- n. Documents. Agency, Owner and/or other parties, as appropriate, shall have executed, and filed or recorded as appropriate, the following documents:
- (1) Agreement Affecting Real Property (to be signed by Owner and Agency);
 - (2) Regulatory Agreement (to be signed by Owner and Housing Authority of the City of San Diego);
 - (3) Agency Loan Note (to be signed by Owner);
 - (4) Agency Deed of Trust (to be signed by Owner);
 - (5) Assignment of Rents and Leases (to be signed by Owner);

- (6) Assignment of Agreements, Plans, Specifications and Entitlements (to be signed by Owner, project architect and contractor);
- (7) Environmental Indemnity (to be signed by Owner);
- (8) UCC-1 Financing Statements;
- (9) Subordination Agreement (to be signed by Agency, Owner and U.S. Bank National Association);
- (10) Subordination Agreement (to be signed by Agency, Owner and Housing Commission);
- (11) Notice of Affordability Covenants (to be signed by Owner);
- (12) Statutory Request for Notice of Default (to be signed by Agency);
and
- (13) Administrative Agreement (aka the Reporting and Monitoring Agreement) for the on-going monitoring of affordability restrictions (to be signed by Agency, Owner and Housing Commission).

- o. Closing Certificate. When all conditions precedent have been satisfied to the satisfaction of the Executive Director or designee, the Executive Director or designee shall execute and submit to the Escrow Agent a certificate stating that all conditions precedent to recording of the documents have been satisfied or waived, if such be the case.

FORM OF AMENDED AGENCY PROMISSORY NOTE

AMENDED RESIDUAL RECEIPTS PROMISSORY NOTE
TO THE REDEVELOPMENT AGENCY
OF THE CITY OF SAN DIEGO

3.0% Interest
\$5,788,475

San Diego, California
_____, 2009

FOR VALUE RECEIVED, WAKELAND VILLAGE GREEN APARTMENTS, L.P., a California limited partnership ("Borrower"), hereby promises to pay to the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Agency"), a public body, corporate and politic, or order, a principal amount of FIVE MILLION SEVEN HUNDRED EIGHTY EIGHT THOUSAND FOUR HUNDRED AND SEVENTY FIVE DOLLARS (\$5,788,475) (the "Agency Loan"). This Note is given pursuant to that certain Owner Participation Agreement dated as of November 25, 2008, between Borrower and Agency (the "OPA") and evidences the Agency Loan to Borrower, which provides part of the financing for the rehabilitation of that certain real property in the City of San Diego legally described in the Deed of Trust securing this Note (the "Property"). The obligation of Borrower to Agency hereunder is subject to the terms of the OPA, this Note and the following instruments, each dated on or about the date hereof, and, where applicable, executed and delivered by Borrower for the purpose of securing this Note: an Agreement Affecting Real Property (Including Rental Restrictions) ("Agreement Affecting Real Property"); a Subordinate Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) ("Agency Deed of Trust"); an Assignment of Rents and Leases ("Assignment of Rents"); Plans, Specifications and Entitlements ("Assignment of Agreements"); and a UCC-1 Financing Statement ("UCC-1"). Said documents are public records on file in the offices of Agency, and the provisions of said documents are incorporated herein by this reference. The Borrower shall pay interest at the rate, in the amount and at the time hereinafter provided.

1. Definitions. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the OPA. In addition, the following terms shall have the following meanings:

"Rehabilitation Costs" shall mean costs of the rehabilitating the Property and the construction of the improvements thereon in accordance with the OPA and the Amended Method of Financing (Attached to the OPA as Attachment No. 3).

"Affiliate" shall mean (1) any Person directly or indirectly controlling, controlled by or under common control with another Person; (2) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, any company for which such Person acts in any such capacity. The term "control" as used in the immediately preceding sentence, shall mean the power to direct the management or the power to control election of the board of directors. It shall be a presumption that control with respect to a corporation or limited liability company is the

right to exercise or control, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the controlled corporation or limited liability company, and, with respect to any individual, partnership, trust, other entity or association, control is the possession, indirectly or directly, of the power to direct or cause the direction of the management or policies of the controlled entity.

"Agency Deed of Trust" shall mean the Subordinate Deed of Trust, Security Agreement and Fixture Filing (with Assignment of Rents) executed by Borrower in favor of Agency and recorded in the Official Records of the San Diego County Recorder's Office on or about the date hereof, which secures this Note and the Agency Loan evidenced hereby.

"Agency Loan" shall mean the loan made by the Agency to Borrower pursuant to the OPA in the maximum amount of \$5,788,475 which is evidenced by this Note.

"Agency Loan Documents" shall mean this Note, the Agency Deed of Trust, Assignment of Rents, Assignment of Agreements, Environmental Indemnity and the UCC-1 Financing Statement, each dated on or about the date hereof.

"Agency's Share of Residual Receipts" shall mean seventy-three (73%) percent of the greater of (i) fifty (50%) percent of the total Residual Receipts or (ii) \$35,217 (which is equal to half of the estimated residual receipts at year 5). To the extent fifty (50%) percent of any year's Residual Receipts do not cover the minimum annual payment, the Agency and the Housing Commission shall receive one hundred (100%) percent of the Project's Residual Receipts up to \$35,217.

"Annual Financial Statement" shall mean the annual audited financial statement of Gross Revenue and Operating Expenses and balance sheet for the Improvements, prepared at the Borrower's expense, by an independent certified public accountant reasonably acceptable to the Agency, which shall form the basis for determining the Residual Receipts.

"Asset Management Fee" shall mean any fee (other than the Deferred Developer Fee), regardless of how it is characterized, paid to the Borrower or its general partner for the purpose of managing the affairs of the Borrower's partnership and any fee paid to the Tax Credit Equity Investor for the purpose of managing the affairs of the Tax Credit Equity Investor, not to exceed \$30,000 per year in the first year after the date of this Note, with such maximum amount to increase by 3.5% per year.

"Bonds" shall mean the tax exempt Housing Authority of the City of San Diego Multifamily Housing Revenue Bonds constituting the mortgage revenue bonds issued for the Project as described in the Amended Method of Financing attached to the OPA.

"Bond Loan" shall mean the first priority Bond Loan funded with proceeds of the Bond used to pay a portion of the acquisition costs and Rehabilitation Costs in the approximate amount of \$9,664,172, to be made to Owner at the time of the Bond Loan Closing from the proceeds of the Bonds, secured by the Bond Loan Deed of Trust.

"Bond Loan Deed of Trust" shall mean the deed of trust securing the Bond Loan.

"Deferred Developer Fee" shall mean that portion of the Developer Fee equal to \$300,000 (or such other amount as shall be determined after project stabilization under Borrower's partnership agreement, subject to the approval of the Agency Executive Director or designee) which was not paid to Borrower prior to the Occupancy Date and which shall be paid to Borrower, with interest at the minimum interest rate allowed by the rules applicable to tax-exempt bonds and Low Income Housing Tax Credits issued by the State of California and the IRS, from (i) any Additional Proceeds (as set forth in Section 10. (b) below), and (ii) a 50% pro rata share of any Cost Savings (as set forth in Section 10. (a) below).

"Gross Revenue" with respect to a particular calendar year, shall mean all revenue, income, receipts, and other consideration actually received from operation or leasing of the Project. "Gross Revenue" shall include, but not be limited to: all rents, fees and charges paid by tenants, Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Project; and condemnation awards for a taking of part or all of the Project for a temporary period. "Gross Revenue" shall also include the fair market value of any goods or services provided in consideration for the leasing or other use of any portion of the Project, except that the value of services provided by on-site manager(s) shall not be treated as "Gross Revenue" if no more than one dwelling unit is leased to or otherwise used by on-site manager(s). "Gross Revenue" shall not include tenants' security deposits, proceeds from the Bond Loans, the Agency Loan, the Housing Commission Loan, capital contributions or similar advances, or interest that is earned on and allocated to reserve accounts.

"Housing Commission" means the San Diego Housing Commission.

"Housing Commission Loan" means the third priority San Diego Housing Commission residual receipts permanent loan in an amount not to exceed Two Million One Hundred Sixty Five Thousand Sixty Seven Dollars (\$2,165,067) to fund a portion of the Rehabilitation Costs for the Project, subordinate to the Bond Loan and the Agency Loan.

"Improvements" shall mean the 93-unit residential development to be rehabilitated on the Property, all as described in the OPA.

"Low Income Housing Tax Credits" shall mean tax credits authorized by the Tax Reform Act of 1986 and governed by Section 42 of the Internal Revenue Code.

"Occupancy Date" shall mean the date on which the City of San Diego issues a Certificate of Occupancy for the Improvements.

"Operating Expenses" with respect to a particular calendar year shall mean the following costs reasonably and actually incurred for operation and maintenance of the Project to the extent that they are consistent with an annual independent audit performed by a certified

public accountant using generally accepted accounting principles: property and other taxes and assessments imposed on the Project; premiums for property damage and liability insurance; utility services not paid for directly or reimbursed by tenants, including but not limited to water, sewer, trash collection, gas and electricity; maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial, supplies, and similar customary utility services; any annual lease payment, license or certificate of occupancy fees required for operation of the Project; general administrative expenses including but not limited to advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns for the limited partnership, and similar customary administrative expenses; property management fees and reimbursements including on-site manager expenses, not to exceed \$80 per unit per month in the first year with annual increases thereafter in proportion to the increases in Affordable Rent for the Project and pursuant to a management contract approved by the Agency; cash deposited into a reserve for capital replacements or Project improvements and an operating reserve in such reasonable amounts as are required by Project lenders, the Tax Credit Allocation Committee, and the tax credit investor from time to time, and approved by the Agency; debt service payments (excluding debt service due from residual receipts or surplus cash of the Project) on loans associated with the Project and approved by the Agency; any Asset Management Fee or any other similar fee paid to any partner of the Borrower, any Deferred Developer Fee, and all other payments, charges and other amounts becoming due under the Bond Loan Deed of Trust. "Annual Operating Expenses" shall not include the following: depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account. The calculation of Annual Operating Expenses shall be subject to the reasonable approval of the Agency.

"Partnership Agreement" shall mean the limited partnership agreement or other agreement governing the operation of Borrower's limited partnership.

"Permanent Loan" Shall mean the Bond Loan after the conversion of the Bond Loan to the permanent phase in the approximate amount of \$6,550,822 as set forth in the Amended Method of Financing.

"Permitted Transfer" means any of the following, provided Borrower or a general partner of Borrower retains day-to-day control over management and operations of the Property and the Improvements:

- a. Any Permitted Mortgage;
- b. A conveyance of a security interest in the Property in connection with any Senior Loan and any transfer of title by foreclosure, deed or other conveyance in lieu of foreclosure in connection or following the same;
- c. A conveyance of the Property to any Affiliate;
- d. The inclusion of equity participation by Owner by addition of limited partners to Owner's limited partnership, or similar mechanism, and the

purchase of any such limited partnership interest or interests by the General Partner;

- e. The lease for occupancy of all or any part of the Improvements within the Property;
- f. The granting of easements or permits to facilitate the rehabilitation of the Property in accordance with this Agreement; and
- g. The withdrawal, removal and/or replacement of any limited partner of Borrower's limited partnership pursuant to the terms of the Borrower's partnership agreement shall not constitute a default under this Agreement or any of the Agency Loan Documents, nor shall such actions accelerate the maturity of the Agency Loan, provided (i) such substitute limited partner is selected with reasonable promptness and (ii) Agency receives at least fourteen (14) days advance written notice of any substitution of a limited partner.

Any transfer described in clauses a. through c. shall be subject to the reasonable approval of documentation by the Agency Executive Director or designee.

"Permitted Mortgage" means any conveyance of a security interest in the Property to one or more Mortgagees to secure any loan to finance the rehabilitation of the Property as required by the OPA, specifically including the Bond Loan and any other loan specifically described in the Amended Method of Financing, or the conveyance of title to the Mortgagee or its assignee in connection with a foreclosure or a deed in lieu of foreclosure of such loan.

"Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, domestic or foreign.

"Pro Rata Percentages" shall mean the pro rata application of Residual Receipts to the repayment of the Agency Loan and the Housing Commission Loan, reflecting the relative amounts of the Agency Loan and the Housing Commission Loan. The Pro Rata Percentages shall be seventy three (73%) percent for the Agency Loan and twenty-seven (27%) for the Housing Commission Loan. Payments will be based on the greater of (i) fifty (50%) percent of the total Residual Receipts or (ii) \$35,217, (which is equal to half of the estimated residual receipts at year 5). To the extent fifty (50%) percent of any year's Residual Receipts do not cover the minimum annual payment, the Agency and the Housing Commission shall receive 100% of the Project's Residual Receipts up to \$35,217.

"Property" shall mean the real property described as the "Property" in and legally described as set forth in Exhibit "A" of the Agency Deed of Trust.

"Residual Receipts" shall mean (a) the Gross Revenue minus (b) the Operating Expenses, calculated on a 12-month basis. All calculations of Residual Receipts shall be subject to verification and reasonable approval by the Agency.

“Senior Loan” shall mean the construction and senior loan in the amount of approximately \$9,664,172 made to Borrower (such loan to be referred to as the “Bond Loan” and the maker of such loan, and its successors and assigns, to be referred to as the “Bond Lender”), and which Borrower shall pay down to a permanent loan, estimated to be in the amount of approximately \$6,550,822 upon the conversion of the Bond Loan to the permanent phase, (funded with tax-exempt bond proceeds), which shall be secured by a deed of trust that is senior and superior to the Agency Deed of Trust, or any other loan secured by a deed of trust or other instrument to which the Agency agrees to subordinate this Note, the Agency Deed of Trust and the other Agency Loan Documents.

“Tax Credit Equity Investor” shall mean any Person who will be an investor, and a limited partner who will purchase the Low Income Housing Tax Credits.

“Term” of this Note shall mean fifty-five (55) years from the Occupancy Date or the date of recordation of the Release of Construction Covenants by the Agency pursuant to the OPA, whichever occurs later.

“Transfer” shall have the meaning set forth in Section 10 of this Note.

2. Evidence of Obligation. This Note evidences the obligation of the Borrower to the Agency for the repayment of the Agency Loan. None of the funds provided pursuant to the Agency Loan were funded directly or indirectly with any obligation the interest on which is exempt from tax under Section 103 of the Internal Revenue Code of 1986, as amended, or pursuant to any United States federal government source.

3. Where and How Payable. This Note is payable at the principal office of Agency, c/o Redevelopment Agency of the City of San Diego, Crossroads Redevelopment Project Area Manager, 1200 Third Avenue, Suite 1400, San Diego, California 92101, or at such other place as the holder hereof may inform the Borrower in writing, in lawful money of the United States.

4. Security. This Note shall be secured by the Agency Deed of Trust.

5. Interest. Except in an event of acceleration described in paragraphs a. and b. of Section 7, below, this Note shall bear interest at the rate of three percent (3%) per annum, simple interest, which shall begin to accrue upon disbursement. In the case of an event of acceleration described in paragraphs a. and b. of Section 7, below, the unpaid balance shall bear interest at the highest rate of interest permitted by law, from disbursement until paid in full.

6. Payments. Except in an event of acceleration described in paragraphs a. and b. of Section 7 below, no payments shall be due and payable under this Note except to the extent of (a) the Agency's Share of Residual Receipts as described in Section 8, below, and (b) the Agency's share of any refinancing, Cost Savings or Additional Proceeds.

7. Due on Expiration of Term or Upon Event of Acceleration. The entire unpaid principal balance of this Note and any accrued but unpaid interest shall be due and payable upon

the expiration of the Term hereof, or immediately upon the occurrence of either of the following events of acceleration:

(a) the date the Property or any portion thereof or interest therein is sold, transferred, assigned or refinanced, without the prior written approval of the Agency, except as otherwise permitted in this Note and the OPA; or

(b) the date on which there is a default by the Borrower under the terms of this Note, the Agency Deed of Trust, the OPA, the Agreement Containing Covenants, the Environmental Indemnity or any deed of trust or other instrument securing any Senior Loan or Housing Commission Loan, or other obligations secured by a deed of trust on the Property, which is not cured within the respective time period provided herein and therein.

8. Residual Receipts. Subject to the adjustments described in Section 10 of this Note, prior to the expiration of the 55-year Term hereof, Borrower shall be obligated to repay the Agency Loan exclusively from the Agency's Share of Residual Receipts, as follows:

(a) On the 1st of April of each calendar year, commencing April 1, 2013, Borrower shall pay to Agency the Agency's Share of Residual receipts, plus all amounts deferred pursuant to paragraph 8(d) below and interest accrued thereon.

(b) All payments to the Agency shall be applied first to accrued interest, and then to reduce the principal amount owed. All prepayment of principal on this Note shall be applied to the most remote principal installment or installments until paid.

(c) Notwithstanding paragraph (a) of this Section 8, Borrower's obligation to make payments to the Agency prior to the Maturity Date shall be subject to the following:

(i) All Residual Receipts shall be split between the Agency and the Housing Commission, with the Agency receiving such amounts as set forth in Section 8.a. above on an annual basis beginning on April 1, 2013.

(ii) Residual Receipt payments to the Agency and the Housing Commission shall be made to the extent of the availability residual cash flow. In the event that 50% of any year's Residual Receipts do not cover the minimum annual payment, the Agency and the Housing Commission shall receive 100% of the Projects Residual Receipts up to \$35,217.

(iii) Borrower must utilize Residual Receipts with respect to a particular calendar year to repay the Agency Loan through the pro rata application of such Residual Receipts, applying the Pro Rata Percentages.

(d) In the event the Annual Financial Statement demonstrates that the annual payment hereunder pursuant to paragraph (a) above with respect to any calendar year exceeds the portion of Residual Receipts payable to the Agency for such calendar year, Borrower's annual payments under this Note shall be deferred, in whole or in part, to the extent the annual payment under this Note exceeds the available Residual Receipts payable to the Agency.

(e) The first such Annual Financial Statement shall be for the partial year beginning on the Occupancy Date and ending on December 31 of that year. The Agency shall review and approve such Annual Financial Statement, or request revisions, within 30 days after receipt. In the event as the result of the Agency's review of the statement, there is an increase in the amount of any payment due and payable to Agency (as the result, for example, of a determination that the actual amount of Residual Receipts to which the Agency is entitled exceeds the amount of Agency's Share of Residual Receipts shown in the Annual Financial Statement submitted by Borrower), Borrower shall promptly pay to the Agency the difference, with interest, from the date on which such payment was due, at the rate of five percent (5%) per annum.

9. Application of Payments. All payments to the Agency shall be applied first to interest, then to reduce the principal amount owed.

10. Mandatory Prepayments. The Agency Loan shall be subject to prepayment equal to the Agency's share of any "Cost Savings" or "Additional Proceeds" (as provided below).

(a) Cost Savings. The following provision setting forth the right of the Agency to receive any "Cost Savings", as defined below, shall be subject to the right of the Owner to receive 50% any Cost Savings to be used toward the payment of the Deferred Developer Fee. In the event actual Rehabilitation Costs, as determined by a cost certification performed not later than 60 days following completion of Rehabilitation, at Borrower's expense, by a certified public accountant acceptable to the Agency, are less than \$6,929,710, 50% of the resulting cost savings shall be paid to the Agency) to reduce the principal amount of the Agency Loan and 50% of the resulting cost savings shall be paid used solely toward the payment of the Deferred Developer Fee ("Cost Savings").

(b) Additional Proceeds. To the extent Borrower obtains (i) a Permanent Loan in a principal amount in excess of \$6,550,822, (ii) any additional grant funds, and/or (iii) Low Income Housing Tax Credits in excess of \$4,452,230, the Borrower shall apply an amount equal to 100% of the sum of (i) any Permanent Loan proceeds thereof in excess of \$6,550,822 plus, (ii) any additional grant funds plus, (iii) any equity raised from the sale of Low Income Housing Tax Credits to the extent such equity is in excess of \$4,452,230 (the "Additional Proceeds"), (A) first to pay any outstanding Deferred Developer Fee, then (B) 100 % of all remaining Additional Proceeds shall be used to pay accrued interest on, and then reduce the principal amount of the Agency Loan, except to the extent such Additional Proceeds are needed to pay for cost overruns for which no other funds are available. If at any time Borrower refinances the initial Permanent Loan, Borrower shall apply the proceeds of any such refinancing in excess of the amount needed to pay in full the then-current balance of the Permanent Loan, first to pay any outstanding Deferred Developer Fee, then 100 % of all remaining Additional Proceeds shall be used to pay accrued interest on, and then reduce the principal amount of the Agency Loan.

11. Transfers.

(a) Prior to the repayment in full of the Agency Loan, the Borrower shall not assign or attempt to assign the OPA or any right therein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property, the Improvements

thereon, or any portion thereof or interest therein (referred to hereinafter as a "Transfer"), without prior written approval of the Agency, except as otherwise permitted in this Note. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Agency shall not unreasonably withhold or delay its consent. If consent should be given, any such transfer shall be subject to this Section 11, and any such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein, subject to the provisions of subsection 11(e)(iii), below.

(b) Any such proposed transferee shall have the qualifications and financial responsibility necessary and adequate as may be reasonably determined by the Agency, to fulfill the obligations undertaken by Borrower in the OPA, the Agreement Affecting Real Property and this Note. Any such proposed transferee, by instrument in writing satisfactory to the Agency and in form recordable among the land records of San Diego County, for itself and its successors and assigns, and for the benefit of the Agency shall expressly assume all of the obligations of the Borrower under the OPA and the Agreement Affecting Real Property, and agree to be subject to all conditions and restrictions applicable to the Borrower in this Note, subject to the provisions of subsection 11(e)(iii). There shall be submitted to the Agency for review all instruments and other legal documents proposed to effect any such transfer; and if approved by the Agency its approval shall be indicated to the Borrower in writing.

(c) In the absence of specific written agreement by the Agency, no unauthorized Transfer, or approval thereof by the Agency, shall be deemed to relieve the Borrower or any other party from any obligations under this Note, the Agency Loan Deed of Trust, OPA, Agreement Affecting Real Property or Environmental Indemnity.

(d) In the event of a Transfer prior to the time the Agency Loan is paid in full without the prior written consent of the Agency, the remaining principal balance of the Agency Loan and all accrued but unpaid interest shall be immediately due and payable.

(e) (i) As used herein, "Transfer" includes the sale, transfer or conveyance of the Property, the Improvements, or any portion thereof or interest therein, whether voluntary, involuntary, by operation of law or otherwise, or any agreement to do so; the execution of any installment land sale contract or similar instrument affecting all or a portion of the Property or the Improvements; or the lease of all or substantially all of the Property or Improvements, except as provided in subparagraph (e)(iii) of this Section 11, below.

(ii) "Transfer" shall also include the transfer, assignment, hypothecation or conveyance of legal or beneficial ownership of any interest in Borrower, or any conversion of Borrower to an entity form other than that of Borrower at the time of execution of this Note, except for the following: (A) a cumulative change in the ownership interests of any individual limited liability company member of forty-nine percent (49%) or less shall not be deemed a "Transfer" for purposes of this Note; and (B) a transfer of a portion or a majority of stock of any corporation to a trust formed in connection with a qualified employee ownership plan shall not, by itself, be deemed to constitute a change in ownership for purposes of this Note.

(iii) Notwithstanding paragraphs (i) and (ii), "Transfer" shall not include any Permitted Transfers, as defined in the OPA.

(f) The Agency shall not unreasonably withhold, condition or delay its approval of any matter for which its approval is required hereunder. Any disapproval shall be in writing and contain the Agency's reasons for disapproval.

12. Low and Moderate Income Housing. The Agency Loan is funded from the Agency's Low and Moderate Income Housing Fund. Accordingly, Borrower agrees for itself, its successors and assigns that the use of the Property shall be subject to the restrictions on rent and occupancy set forth in the Agreement Affecting Real Property.

13. Limited Recourse. Subject to the provisions and limitations of this Section 13, the obligation to repay the Agency Loan is a nonrecourse obligation of the Borrower. Borrower and any general or limited partner of Borrower's limited partnership shall not have any personal liability for repayment of the loan, except as provided in this Section 13. The sole recourse of Agency shall be the exercise of its rights against the Property and any related security for the Agency Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by this Note or the Deed of Trust; (b) limit the right of the Agency to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (c) release or impair this Note or the Deed of Trust; (d) prevent or in any way hinder Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to Agency; or (g) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of a default, Borrower and its successors and assigns shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Borrower, its principals, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property after the occurrence of such default, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the mortgaged Property, ordinary and reasonable capital improvements to the mortgaged Property, debt service, real estate taxes in respect of the mortgaged Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Borrower in connection with the operation of the mortgaged Property, which are then due and payable. Notwithstanding the first sentence of this paragraph, Agency may recover directly from Borrower or from any other party:

(a) any damages, costs and expenses incurred by Agency as a result of fraud or any criminal act or acts of Borrower or any member, partner, shareholder, officer, director or employee of Borrower, or of any member or general or limited partner of Borrower, or of any general or limited partner of such member or general or limited partner;

(b) any damages, costs and expenses incurred by Agency as a result of any misappropriation of funds provided to pay Rehabilitation Costs, as described in the OPA, rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds;

(c) any and all amounts owing by Borrower pursuant to any indemnity set forth in the OPA or the indemnification regarding Hazardous Substances pursuant to the Environmental Indemnity, and

(d) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that Agency shall pay Borrower's reasonable court costs and attorneys' fees if Borrower is the prevailing party in any such enforcement or collection action).

14. Waivers. Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the holder hereof, in the enforcement of this Note, the Agency Deed of Trust or any term or provision of either thereof.

15. Exercise of Rights and Remedies. Upon the failure of Borrower to perform or observe any other term or provision of this Note, upon any event of acceleration described in Section 7, or upon the occurrence of any other event of default under the terms of the Agency Deed of Trust, the OPA or the Agreement Affecting Real Property, or any deed of trust securing the Housing Commission Loan, Senior Loan or other obligations secured by a deed of trust on the Property, the holder may exercise its rights or remedies hereunder or thereunder.

16. Defaults.

(a) Subject to the extensions of time set forth in Section 17, and subject to the further provisions of this Section 16, failure or delay by Borrower to perform any term or provision of this Note, the Agency Deed of Trust, the OPA, the Agreement Affecting Real Property or the Environmental Indemnity, or any deed of trust securing the Housing Commission Loan, Senior Loan or other obligations secured by a deed of trust on the Property, constitutes a default under this Note.

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

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

(d) If a monetary event of default occurs under the terms of this Note or the Agency Deed of Trust, or any deed of trust securing the Housing Commission Loan, Senior Loan or Permanent Loan or other obligations secured by a deed of trust on the Property, prior to exercising any remedies hereunder or thereunder Agency shall give Borrower and each of the members of Borrower's limited partnership, as identified in Borrower's Partnership Agreement, simultaneous written notice of such default. Borrower shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Agency under this Note and/or the Agency Deed of Trust. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received. Notices to the Tax Credit Investor shall be sent to the following address:

Union Bank, N.A
200 Pringle Avenue, Suite 355
Walnut Creek, CA 94596
Attention: James H. Francis
Facsimile: (925) 947-2455

With a copy to:

Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
Attention: Frederick R. Meyer
Facsimile: (312) 853-7036

(e) If a non-monetary event of default occurs under the terms of the OPA, this Note, the Agency Deed of Trust, the Agreement Affecting Real Property or any document implementing the OPA or any deed of trust securing the Housing Commission Loan, Senior Loan or other obligations secured by a deed of trust on the Property, prior to exercising any remedies hereunder or thereunder, Agency shall give Borrower and each of the members of Borrower's limited liability company, as identified in Borrower's Partnership Agreement, simultaneous notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Borrower shall have such period to effect a cure prior to exercise of remedies by the Agency under the OPA, the Agreement Affecting Real Property, this Note and/or the Agency Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Borrower (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to

exercise of any remedies by Agency. If Borrower fails to take corrective action or to cure the default within a reasonable time, Agency shall give Borrower and each of the Tax Credit Equity investor written notice thereof, whereupon the Tax Credit Equity Investor may exercise any authority it may have under the Partnership Agreement to remove and replace the general partner with a substitute general partner who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. In no event shall Agency be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the notice of default is received or deemed received.

(f) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Borrower; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

17. Force Majeure. Notwithstanding specific provisions of this Note, Borrower shall not be deemed to be in default for failure to perform any non-monetary performance hereunder where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the Agency or any other public or governmental agency or entity, or any causes beyond the control or without the fault of the Borrower. An extension of time for any such cause (a "Force Majeure Delay") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by Borrower is sent to the Agency within thirty (30) days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the Borrower delivers to the Agency written notice describing the event, its cause, when and how Borrower obtained knowledge, the date and the event commenced, and the estimated delay resulting therefrom. Borrower shall deliver such written notice within thirty (30) days after it obtains actual knowledge of the event. Times of performance under this Agreement may also be extended in writing by the Agency and Borrower.

18. Partial Invalidity. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.

19. Subordination to Senior Loans. The Agency Deed of Trust shall be subordinate to the Construction Loan, the Permanent Loan and any deed of trust securing any Senior Loan and any regulatory agreement to be recorded in connection with the Bonds and/or the Low Income Housing Tax Credit. The Executive Director or designee shall execute subordination agreement(s) as may be consistent with the Amended Method of Financing and the OPA to subordinate the Agency Deed of Trust to the lien of the deed of trust securing the Bond Loan, the Permanent Loan or

Senior Loan, provided such subordination agreement(s) substantially conform in form and substance to the Form of Subordination Agreement attached to the OPA as Attachment No. 15. Any modifications to this Note, the Amended Method of Financing and the OPA that do not substantially conform, in a substantive manner, with Attachment No. 15 of the OPA shall be submitted to the Agency Board for approval. Upon the reasonable request of the Tax Credit Equity Investor or a Senior Lender, Agency shall execute from time-to-time such estoppel certificates to the extent they are consistent with the terms of this Note, the Amended Method of Financing and the OPA.

20. Extended Low-Income Housing Commitment. Notwithstanding anything to the contrary contained herein or in any documents secured by the Agency Deed of Trust or contained in any subordination agreement, the Agency acknowledges and agrees that in the event of a foreclosure or deed-in-lieu of foreclosure (collectively, "Foreclosure") with respect to the Property encumbered by the Agency Deed of Trust, the following rule contained in Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986, as amended, shall apply: for a period of three (3) years from the date of Foreclosure, with respect to any unit that had been regulated by the regulatory agreement with the California Tax Credit Allocation Committee (the "Extended Use Agreement"), (i) none of the tenants occupying those units at the time of Foreclosure may be evicted or their tenancy terminated (other than for good cause), (ii) nor may any rent be increased except as otherwise permitted under Section 42 of the Code. Borrower acknowledges and agrees that any default, event of default, or breach (however such terms may be defined) under the Extended Use Agreement shall be an event of default under this Note and the Agency Deed of Trust and that any costs, damages or other amounts, including reasonable attorneys' fees incurred by Agency as a result of an event of default by Borrower, and any amounts paid by Agency to cure any default under the Extended Use Agreement shall be an obligation of Borrower and become a part of the debt evidenced by this Note and secured by the Agency Deed of Trust.

21. Approvals. In any approval, consent or other determination by Agency required under this Note or any of the other Agency Loan Documents, Agency shall act reasonably and in good faith.

22. Right to Prepay. Borrower shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty. However, prepayment of the obligation evidenced by this Note prior to the expiration of the term of the Agreement Affecting Real Property shall not entitle Borrower to a full reconveyance of the Agency Deed of Trust securing this Note.

23. Joint and Several. If Borrower is comprised of more than one person or entity, the obligations hereunder shall be the joint and several obligations of each such person or entity so comprising Borrower.

IN WITNESS WHEREOF Borrower has executed this Note as of the day and year set forth above.

WAKELAND VILLAGE GREEN APARTMENTS, L.P.
a California limited partnership

By: Wakeland Village Green Apartments, LLC,
a California limited liability company,
Its Managing General Partner

By: Wakeland Housing and Development Corporation
a California nonprofit public benefit corporation
its Manager and Sole Member

By: _____
Kenneth L. Sauder
President and CEO

FORM OF
AMENDED NOTICE OF AFFORDABILITY RESTRICTIONS

Recording Requested By and
When Recorded Mail to:

Redevelopment Agency of the
City of San Diego
c/o Crossroads Redevelopment Project Area
1200 3rd Ave., 14th Floor,
San Diego, California 92101
Attn: Project Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NOTICE OF AFFORDABILITY RESTRICTIONS
ON TRANSFER OF PROPERTY**

NOTICE IS HEREBY GIVEN that pursuant to Health & Safety Code Section 33334.3(f)(3) as amended effective January 1, 2008, the Redevelopment Agency of the City of San Diego (the "Agency") is recording this Notice of Affordability Restrictions on Transfer of Property (hereinafter the "Notice") with regard to the property located at 4140-4155 Bonillo Drive, San Diego, California 92101 and more particularly described in Exhibit "A" attached hereto (the "Property").

The Property is subject to that certain Owner Participation Agreement entered into by Agency and Wakeland Village Green Apartments, L.P., a California limited partnership ("Owner") dated November 25, 2008 (the "OPA") and that certain Agreement Affecting Real Property (Including Rental Restrictions) (the "Covenants") entered into by the Agency and Owner recorded on October 1, 2009 as Document No. _____ in the Official Records of the County Recorder for San Diego County, which restricts the use of the Property as follows: (any capitalized terms not defined herein shall have the meaning ascribed to them in the Covenants or the OPA):

- (1) There shall be 93 residential units, including 79 two-bedroom units and 14 three-bedroom units on the Property. Of the 93 residential units to be rehabilitated on the Property, 60 of the residential units shall be occupancy and rent restricted by the Agency, including 58 two-bedroom units and 2 three-bedroom units at CRL Affordable Rent (the "Agency Units" or "Units"). The required distribution of these units by type and affordability mix is set forth on Exhibit "B" attached hereto and incorporated herein by this reference.

92 of the residential units are reserved for families of Low Income and Very Low Income (and as such shall be rented at CRL Affordable Rent and TCAC Affordable Rent to persons of Low and Very Low Income as defined below). One (1) unit shall be designated as a manager's unit. The number of Agency Units by unit-types and the CRL Affordable Rent applicable to the Agency Units by unit-types (applicable to 2009 rents), shall be as set forth in the Schedule of Affordable Rents attached to this Notice as Exhibit "C."

"Very Low Income" shall mean a household income that does not exceed the income limits for very low income households, adjusted for household size, determined on the basis of the area median income for San Diego County, as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.

"Low Income" shall mean a household income that exceeds the qualifying limits for Very Low Income household but does not exceed the qualifying limits for lower income households, adjusted for family size, determined on the basis of the area median income for San Diego County, as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. These qualifying limits shall be published by the California Department of Housing and Community Development as soon as possible after the adoption by the Secretary of Housing and Urban Development.

- (2) Upon the transfer, conveyance or assignment of Owner's right, title and interest in and to the Property to any purchaser at any foreclosure sale, whether the foreclosure is conducted pursuant to court order or pursuant to a power of sale contained in a Permitted Mortgage or by virtue of a transfer in lieu of foreclosure (a "Foreclosure Transfer"),

Owner, its successors and assignees shall thereafter use the Property exclusively to provide affordable housing for Low Income households, subject to all of the terms and conditions of the Covenants and the OPA.

- (3) The maximum incomes of residential tenants eligible to rent the Agency Units shall be determined on the basis of the area median income for San Diego, published approximately annually by the California Department of Housing and Community Development.
- (4) Rents charged for the Agency Units shall not exceed "CRL Affordable Rent" as follows. The maximum monthly rent, including a reasonable utility allowance (excluding telephone) that may be charged to tenants shall be calculated as follows:
 - (a) As to Low Income households: Low Income households whose incomes exceed 50% but do not exceed 60% of the Area Median Income, shall not exceed one-twelfth (1/12) times the product of 30% times 60% of the area median income, adjusted for family size appropriate for the Agency Unit.
 - (b) As to Very Low Income households: shall not exceed one-twelfth (1/12) times the product of 30% times 50% of the area median income, adjusted for family size appropriate for the Agency Unit.
 - (c) Effective on the date of a Foreclosure Transfer, "CRL Affordable Rent" shall mean monthly rent, including a reasonable allowance for utilities and services (excluding telephone) to be paid by Low Income households that shall not exceed 1/12th of the product of 30% times 60% of the area median income, adjusted for family size appropriate to the housing unit.
- (5) Among Low and Very Low Income households who are otherwise eligible to rent the Agency Units to be rehabilitated pursuant to the OPA, Owner shall make reasonable efforts to give first priority to those persons who have been displaced by any redevelopment project within the City of San Diego over other eligible persons. Prior to the

initial rent-up of the Agency Units, Owner shall consult with and obtain the approval of the Agency in developing a fair marketing plan for renting the Agency Units.

- (6) Agency and its successors and assigns, shall monitor and enforce the covenants contained in the Covenants. Owner shall comply with any monitoring program set up by Agency to enforce said covenants. In complying with such monitoring program, Owner or its agent shall prepare and submit to Agency an occupancy report, financial information and income verification documents for each tenant of a Unit, and all supporting documentation, on forms provided by Owner, annually, setting forth the required information for the preceding year. On an annual basis Owner or its agent shall additionally submit to Agency evidence of each Low or Moderate Income tenant's continuing eligibility for the Units. Agency shall review such reports within 14 days of receipt for certification of continuing affordability of Units and eligibility of tenants. Owner shall pay such reasonable costs associated with said monitoring and enforcement efforts as required by the Housing Commission.
- (7) Except for a resident manager, no officer, employee, agent, official or consultant of Owner may occupy any of the Agency Units.

The current owner of the Property is Wakeland Village Green Apartments, L.P., a California limited partnership.

The affordability and other restrictions imposed on the Property by the Covenants are scheduled to expire not less than fifty-five (55) years from the date of the recordation of the Release of Construction Covenants.

This Notice is recorded for the purpose of providing notice only and it in no way modifies the provisions of the Covenants or the OPA.

[signature on the following page]

AGENCY:

REDEVELOPMENT AGENCY OF THE CITY
OF SAN DIEGO

Date: _____

By: _____

Janice Weinrick
Deputy Executive Director

EXHIBIT "A"

Legal Description

All that certain property located in the County of San Diego, State of California, described as follows:

[TO BE INSERTED]

Assessor's Parcel No. _____

EXHIBIT "B"

REQUIRED DISTRIBUTION (NUMBER OF UNITS) OF AFFORDABLE
UNITS
BY TYPE AND AFFORDABILITY MIX

Total Units

Two Bedroom	78 units
Three Bedroom	14 units
Managers Unit	1 unit
Total	93 units

Agency Units

Two Bedroom Very Low Income	8 units
Two Bedroom Low Income	50 units
Three Bedroom Very Low Income	<u>2 units</u>
Total Agency Units	60 Units

EXHIBIT "C"

SCHEDULE OF INITIAL YEAR AFFORDABLE RENTS

<u>Type of Agency Units</u>	<u>Maximum Income</u>	<u>Rent Formula</u>	<u>*Maximum Rent (HCD 2009)</u>
8 Two Bedroom	Very Low Income	30% x 50% x AMI for 3 person household	\$843/mo (less utility allowance)
50 Two Bedroom	Low Income	30% x 60% x AMI for 3 person household	\$1,011/mo (less utility allowance)
2 Three Bedroom	Very Low Income	30% x 50% x AMI for 4 person household	\$936/mo (less utility allowance)

* These figures will change annually upon publication of AMI figures

ACKNOWLEDGMENT

State of California)
County of San Diego)

On _____, before me, _____,
(Here Insert Name and Title of the Notary Officer) personally appeared
_____, who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public) [Seal]

ACKNOWLEDGMENT

State of California)
County of San Diego)

On _____, before me, _____,
(Here Insert Name and Title of the Notary Officer) personally appeared
_____, who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing is true and correct.

WITNESS my hand and official seal.

_____ [Seal]
(Signature of Notary Public)

FORM OF
AMENDED REPORTING AND MONITORING AGREEMENT

AMENDED ADMINISTRATION AGREEMENT
Rental Units

Village Green Apartments

This Administration Agreement ("Agreement") is entered into as of _____, 2009 by and between the Redevelopment Agency of the City of San Diego, a public body, corporate and politic ("Agency"), the San Diego Housing Commission, a public agency ("Administrator"), and Wakeland Village Green Apartments, L.P., a California limited partnership ("Participant"), which shall collectively be referred to as the "Parties".

RECITALS

WHEREAS, Participant is developing a rental housing project located at 4140-4155 Bonillo Drive, San Diego, California ("Property"), which includes the rehabilitation of 93 living units, with 92 apartments to be rented exclusively to low and very-low income households ("Project"). Of the 92 apartments in the Project, sixty (60) are the subject of this Agreement and referenced herein as the "Affordable Units"; and

WHEREAS, the Affordable Units and real property on which they are constructed are the subject of that certain Agreement Affecting Real Property entered into by and between the Participant and the Agency, dated _____ and recorded against the Property on _____, and that certain Owner Participation Agreement dated November 25, 2008 ("OPA") entered into by and between the Agency and Participant; and

WHEREAS, the OPA and the AARP collectively require the rehabilitation and rental of 60 Affordable Units priced at and made available to households earning between 50-60% of area median income for a period of not less than fifty five (55) years from the date of recordation of the Release of Construction Covenants pursuant to Section 401 of the OPA; and

WHEREAS, pursuant to California Health and Safety Code Section 33418 et seq. of the California Community Redevelopment Law ("CRL"), the Agency is a public agency charged with enforcing the affordable housing obligations of the Participant contained in the OPA and the AARP including, without limitation, determining the eligibility of renters and rental restrictions of the Affordable Units; and

WHEREAS, the Agency desires to use the staff, skills, and facilities of the Administrator to provide monitoring and reporting requirements on the Project, as regulated by the OPA and the AARP; and

WHEREAS, the Parties have the capability and the legal right to enter into this Agreement; and

WHEREAS, the Participant, the Agency and the Administrator desire to enter into this Agreement to, inter alia, provide that (i) Participant shall pay a fee to Administrator in consideration for monitoring the Affordable Units for the period of affordability; and (ii) Administrator shall administer and perform all monitoring and reporting requirements on the Project as regulated by the OPA and the AARP, and provide the reports set forth in Paragraph VII herein.

NOW, THEREFORE, the Parties hereby agree as follows:

AGREEMENT

I. Purpose of Agreement

The purpose of this Agreement is to provide for the administration of the affordable housing obligations of the Participant arising under the OPA and the AARP, in accordance with the CRL.

II. Scope of Work

A. Services. In addition to the reporting requirements set forth in Paragraph VII below, the Administrator shall monitor Participant's compliance with the affordable housing requirements of the Project as set forth in the OPA and the AARP, including, without limitation: (i) establishing the eligibility criteria for renters of the Affordable Units in accordance with the requirements of the OPA and the AARP; and (ii) monitoring ongoing compliance with the terms of the OPA and the AARP as applicable, including an annual certification that the Affordable Units remain occupied by eligible tenants. The Agency will notify the Administrator of any amendments to the CRL that would affect the affordable housing requirements of the Project as set forth in the OPA and the AARP.

B. Administrator and Agency Approval of Rents. The maximum amount which Participant may charge for rent of each of the Affordable Units is set forth in Exhibit "A", attached hereto and incorporated herein by this reference.

C. Agency Rights and Obligations. All rights, obligations, and/or duties of the Agency under the OPA and the AARP, not otherwise the subject of this Agreement, shall remain the rights, obligations, and/or duties of the Agency.

III. Parties to Agreement

The Parties to this Agreement are:

A. The Redevelopment Agency of the City of San Diego, California, a public entity, corporate and politic, having its principal office at 1200 Third Avenue; Suite 1400, San Diego, California 92101.

B. The San Diego Housing Commission, a public agency, having its principal office at 1122 Broadway; Suite 300, San Diego, California 92101.

C. Wakeland Village Green Apartments, L.P., a California limited partnership, with notices mailed to 1230 Columbia Street, Suite 950, San Diego, CA 92101.

IV. Representatives of the Parties

The representatives of the respective Parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as follows:

A. The representative of the Agency shall be:

Janice L. Weinrick, Deputy Executive Director
Redevelopment Agency of the City of San Diego
1200 Third Avenue; Suite 1400, MS 56D
San Diego, California 92101

B. The representative of the Administrator shall be:

Rick Gentry, President and Chief Executive Officer
Occupancy Monitoring Department
San Diego Housing Commission
1122 Broadway; Suite 300
San Diego, California 92101

C. The representative of the Participant shall be:

Wakeland Village Green Apartments, LLC
c/o Kenneth L. Sauder, President
Wakeland Housing and Development Corporation
1230 Columbia Street, Suite 950
San Diego, CA 92101

Any Party may designate another representative by providing written notice to the other Parties.

V. Time of Performance

Services pursuant to this Agreement shall commence as of the date of the execution of this Agreement by all of the Parties and shall terminate upon the earlier of: (i) expiration of the affordable rental restriction requirements, as defined in the OPA and the AARP; or (ii) termination of this Agreement pursuant to Section XII or Section XV, below.

VI. Monitoring of the Administrator by the Agency

The Agency may monitor the Administrator's performance of its duties under this Agreement. The Administrator shall reasonably cooperate with the Agency in connection with such monitoring.

VII. Monitoring and Reporting Requirements

Administrator Requirements.

- A. The Administrator shall determine whether proposed applicants qualify as tenants for the Affordable Units.
- B. The Administrator shall monitor the following, pursuant to Exhibit "A" attached hereto:
 - (1) Each Affordable Unit's occupancy by eligible residents (i.e., at very low- and low- income levels); and
 - (2) The period of each Affordable Unit's affordability (i.e., not less than 55 years for rental units).
- C. The Administrator shall submit to the Agency annual reports of its monitoring activities pursuant to this Agreement, which may include the most recent Certification of Continuing Program Compliance report, no later than July 31st for the prior fiscal year (July 1- June 30).
- D. The Administrator shall re-certify household income annually. If a household's income increases to above 140% of the applicable income limitation, when another unit in the project is vacant and can be converted to an affordable rent to replace the former Affordable Unit, the household, whose income has increased to above 140% of the applicable income limitation, shall pay the market rent. Participant shall be solely responsible for eviction of tenants in accordance with applicable law; the Administrator shall have no obligation to evict any persons.

Agency Requirements.

- A. Provide evidence of the Participant's advance notification of any fees required under this Agreement, as demonstrated by Exhibit "B" attached hereto and incorporated herein by this reference.
- B. Annually, upon request from the Administrator, provide an updated rent chart based upon the San Diego Median Income, CRL and applicable regulations for the other project funding sources.

Participant Requirements.

- A. Provide complete and accurate information required by the Administrator with regard to the affordable housing obligations of the Participant contained in the OPA and the AARP, immediately upon request.
- B. Provide the tenants with a written notice from the Participant, one (1) year prior to the expiration of an affordability restriction.
- C. Participant shall timely pay all fees to the Administrator as required by this Agreement.

VIII. Books and Records

A. Complete Books. The Administrator shall maintain or cause to be maintained complete and accurate books, reports, files, and records necessary to carry out its monitoring and reporting obligations under this Agreement, the OPA and the AARP. The Participant shall maintain or cause to be maintained complete and accurate books, reports, files, and records necessary to carry out its monitoring and reporting obligations under this Agreement, the OPA and the AARP.

B. Availability. All records prepared in accordance with this Agreement shall be made available to the Agency for copying and inspection at any time without notice during normal business hours.

IX. Access to Records

A. The Agency shall have full and free access to all books, papers, documents, and records of the Administrator and/or Participant that are pertinent to the obligations of all Parties under this Agreement.

B. The Administrator shall have full and free access to all books, papers, documents and records of the Participant and/or Agency that are pertinent to the Administrator's obligations under this Agreement.

X. Ownership, Use and Distribution of Documents

A. All records, reports, books, papers, documents, computer discs or other information prepared or developed by the Administrator or Participant on behalf of the Agency in connection with services rendered under this Agreement, are and shall remain the exclusive property of the Agency.

B. The Agency and Administrator may use and distribute in each of their sole discretions any records, reports, books, papers, documents, computer discs or other information prepared by the Administrator and/or Participant pursuant to this Agreement. Such purposes include, but are not limited to, annual reports, reports required by the CRL, and responses to public information requests. The Agency shall identify the Administrator as the author of any

such reports prepared by the Administrator that are distributed by the Agency. Neither the Agency, nor the Administrator shall be required to secure any prior authorization, written or otherwise, from one another prior to any such distribution.

C. Upon expiration of this Agreement or in the event of termination of this Agreement by the Agency or the Administrator as provided in Section XII or Section XV of this Agreement, the Administrator agrees to provide to the Agency and the Participant copies of all records, reports, books, papers, documents, computer discs or other information prepared as a result of this Agreement not previously provided to the Agency or the Participant.

XI. Payment of Compensation

A. Amount. In consideration for the Services provided by the Administrator with respect to the Affordable Units as referenced in this Agreement, the Administrator may establish and collect annually a fee ("Annual Monitoring Fee") from the Participant for services rendered pursuant to this Agreement to monitor and enforce the affordability covenants of the Project contained in the OPA and the AARP. The amount of the Annual Monitoring Fee charged shall be based upon the current San Diego Housing Commission Annual Occupancy Monitoring Fee Schedule, Exhibit "B", attached hereto, which Exhibit is subject to revision annually, based upon the increase in the Consumer Price Index for the San Diego Metropolitan Area. Each year the Annual Monitoring Fee shall be increased based upon the percentage of increase in the Cost of Living as referenced in the Consumer Price Index for the San Diego Metropolitan Area. In no event, shall the initial Annual Monitoring Fee decrease, however.

B. Time of Payment. Concurrently with Participant's execution and delivery of this Agreement, Participant shall pay to the Administrator a System Set-Up and Implementation Fee as referenced in Exhibit "B" attached hereto. The Administrator's right to the Annual Monitoring Fee referenced in Exhibit "B" shall commence concurrently with activities referenced in Section VII of this Agreement. The Participant shall pay to the Administrator the Annual Monitoring Fee in accordance with Exhibit "B", and as calculated by, Section XI.A, above. Failure to timely pay the System Set-Up and Implementation Fee or Annual Monitoring Fee shall constitute a material default under this Agreement. Such breach shall entitle the Administrator, in addition to all other rights that it has at law, equity and under the terms of this Agreement, to terminate this Agreement in accordance with Section XV of this Agreement.

C. Administrator Entitled to All Fees. The Participant also agrees to pay additional fees as necessary to reasonably compensate the Administrator in the event Administrator's monitoring results in a need to take additional steps to enforce the covenants and conditions contained in the AARP and referenced in this Agreement, (see Exhibit "B" attached hereto). Participant further agrees that failure to pay all such fees within fifteen (15) business days after receipt of a billing statement for such fees shall constitute a material breach of the covenants and conditions of this Agreement. Such breach shall entitle the Administrator, in addition to all other rights that it has at law, equity and under the terms of this Agreement, to terminate this Agreement in accordance with Section XV of this Agreement. Participant further agrees to pay legal costs and fees and other court costs associated with the legal steps, including the initiation of litigation, taken by the Administrator, at the request of the Agency, to enforce the AARP in addition to the fees set forth herein. The Agency may, in lieu of requesting the Administrator to enforce the

terms of the AARP, enforce the obligations itself upon notification to the Administrator in accordance with the terms of Exhibit "B" attached hereto.

XII. Default

In the event of any breach or default hereunder, which the defaulting or breaching Party fails to satisfactorily cure within ten (10) calendar days of receiving written notice from a non-defaulting Party specifying the nature of the default or breach, the non-defaulting Party may immediately cancel and/or terminate this Agreement upon written notice to all other Parties and/or maintain any and all legally permissible actions at law or in equity against the defaulting Party to enforce the correction of any such default or breach or to enjoin any such default or breach. In addition to the defaulting Party, the non-defaulting Party must send any notice of default to the remaining Party to this Agreement.

XIII. No Partnership

The Parties hereto are entering into this Agreement independently from one another and shall not be deemed officers, officials, agents, partners or employees of one another.

XIV. Amendment or Assignment of Agreement

All amendments to this Agreement must be in writing and executed with mutual consent of the Administrator, the Agency and the Participant. This Agreement may not be assigned by any Party without the written approval of the remaining Parties, and such approval shall not be unreasonably withheld.

XV. Termination

This Agreement may be terminated with or without cause by the Agency or the Administrator upon thirty (30) calendar days' written prior notice to all other Parties.

XVI. Complete Agreement

This Agreement contains the full and complete agreement between the parties concerning the matters contained herein. No verbal agreements or conversation with any officer, official, agent or employee of any Party shall effect or modify any of the terms and conditions of this Agreement.

XVII. Limitations on Agreement

Notwithstanding anything in this Agreement to the contrary, in no event shall the obligations of the Participant under this Agreement be any greater than the obligations of the Participant as the "Owner" under the OPA and the AARP. The Parties agree that this Agreement is not in any way intended to, and does not, revise, amend or otherwise affect any of the terms, conditions or priority of the OPA or the AARP, nor the enforcement thereof, except as specifically set forth herein. The Parties hereby agree that, except as expressly provided herein, the provisions of the OPA and the AARP shall be and remain unmodified and in full force and effect.

XVIII. Counterparts

This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. 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.

XIX. Time of Essence

Time is expressly declared to be of the essence in this Agreement, and of each and every provision in which time is an element.

XX. Captions

Section or paragraph titles and captions contained in this Agreement are inserted as a matter of convenience and for reference, and are not a substantive part of this Agreement.

XXI. Additional Documents

The Parties each agree to sign any additional documents, which are reasonably necessary to carry out this Agreement or to accomplish its intent.

XXII. Benefit and Burden

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, representatives, successors and assigns. This Agreement is not intended to benefit any person other than the Parties hereto.

XXIII. Governing Law

This Agreement has been entered into in the State of California and shall be interpreted and enforced under California law.

XXIV. Venue

Any action that may be filed to enforce or interpret the terms of this Agreement shall be filed in a court located within the City of San Diego, California.

XXV. Attorney's Fees

The prevailing party in any action including, but not limited to, arbitration, a petition for writ of mandate, and/or an action for declaratory relief, brought to enforce, interpret or reform the provisions of this Agreement shall be entitled to reasonable attorney's fees and costs (including,

but not limited to, expert's fees and costs, and including "costs" regardless of whether recoverable as such under statute) incurred in such action.

XXVI. Waiver

No breach of any provision hereof may be waived unless in writing by all Parties. Waiver of any one breach of any provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision hereof.

XXVII. Number of Pages and Exhibits

This Agreement includes ten (10) pages and two (2) Exhibits.

XXVIII. Signing Authority

The representative signing on behalf of each Party to this Agreement represents that authority has been obtained to sign on behalf of the Party.

XXIX. Exhibits and Recitals Incorporated

All exhibits referred to in this Agreement are hereby incorporated in this Agreement by this reference, regardless of whether or not the exhibits are actually attached to this Agreement. The recitals to this Agreement are hereby incorporated in this Agreement by this reference.

XXX. Severability of Provisions

If any term or provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

XXXI. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, legal and personal representatives, successors, and assigns.

[signatures on following page]

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the dates set opposite their signatures.

AGENCY:
REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO

By: _____
Janice L. Weinrick
Deputy Executive Director

Date: _____

Approved as to form and legality:
JAN I. GOLDSMITH, Redevelopment Agency General Counsel

By: _____
Krishna Jayaram
Chief Deputy General Counsel

ADMINISTRATOR:
SAN DIEGO HOUSING COMMISSION

By: _____
Richard C. Gentry
President & CEO

Date: _____

Approved as to form:
CHRISTENSEN & SPATH, LLP

By: _____
Walter F. Spath, III
General Counsel
San Diego Housing Commission

[signatures continued on following page]

PARTICIPANT:

WAKELAND VILLAGE GREEN APARTMENTS, L.P., a California limited partnership

By: Wakeland Village Green, LLC, a California limited liability corporation
Its: Managing General Partner

By: Wakeland Housing and Development Corporation, a California nonprofit public benefit corporation, its Manager and Sole Member

By: _____ Date: _____
Ken Sauder
President and CEO

EXHIBIT "A"

QUALIFIED TENANT AND RENT SCHEDULE

Village Green Apartments

A "Qualified Tenant" shall be a person of low or very low income as defined in the Owner Participation Agreement. Qualified Tenants shall meet the income limits and shall not pay more than the rental rates identified and illustrated in the following tables:

RESTRICTIONS FOR TENANT ELIGIBILITY AND ILLUSTRATION OF MAXIMUM RENTS

# of Units	# of Bedrooms	Income Level ¹	Permissible Gross Rent	Less Utility Allowance ²	Maximum Rents ³	# of Years
8	2	50% AMI (very low)	\$843	\$48	\$795	55
2	3	50% AMI (very low)	\$936	\$58	\$878	55
50	2	60% AMI (low)	\$1,011	\$48	\$963	55

¹ Income Level = Eligible Households earning up to **% of AMI based on household size.

² Utility Allowance derived from San Diego Housing Commission 2009 Utility Allowance Schedule.

³ Maximum Rents = 30% of **% AMI (less utility allowance) based upon household size. The rents in this chart are illustrative CRL rents based upon median family income as estimated by HUD and published in 2009 as "area median income" by HCD. [Health & Safety Code Sec. 50093.] Actual rents at time of lease-up may be different due to fluctuations in the San Diego Median Income.

ILLUSTRATION OF ELIGIBLE HOUSEHOLDS

Based upon 200 San Diego Median Income (HUD):

<u>Size of Household</u>	<u>Maximum Household Income</u>	
	Up to: 50% AMI (very low)	60% AMI (low)
One Person Household	\$28,900	\$34,680
Two Person Household	\$33,050	\$39,660
Three Person Household	\$37,150	\$44,580
Four Person Household	\$41,300	\$49,560

The Median Family Income for San Diego County is determined by the U.S. Department of Housing and Urban Development (HUD Schedule), revised periodically and distributed by the San Diego Housing Commission. Utility allowance calculations may vary depending on actual services provided.

EXHIBIT "B"

OCCUPANCY MONITORING FEE SCHEDULE – Rental Units

Village Green Apartments

The initial SDHC monitoring fee and a portion of the annual monitoring fee is to be credited against the annual Housing Commission bond fee of 23 basis points of the outstanding tax exempt debt. The term of the bonds is 35 years. The "per unit" SDHC monitoring fee will begin in year 36 and continue through year 55.

Initial Monitoring Fee

System Set-up and Implementation (see explanation above)

The initial monitoring fee has been incorporated into the monitoring fees assessed by the San Diego Housing Commission in its bond fee.

Annual Monitoring Fee

The base monitoring fee per unit is: \$65 per unit for the first 40 units,
\$55 per unit for the next 40 units,
\$45 per unit for all units in excess of 80.

The monitoring fee is subject to annual adjustments to reflect changes in the Consumer Price Index over the term of this Agreement as set forth below.

Maximum Annual Fee

Pursuant to this Agreement and recorded Agreement Affecting Real Property (including Rental Restrictions), the maximum initial annual fee charged by the Administrator in Year 36 shall not exceed \$3,700. This maximum initial annual amount may be adjusted for changes in the Consumer Price Index as set forth in Section XI of this Agreement.

Enforcement Fees

In the event the Administrator, in monitoring compliance, determines that the Participant is not in compliance with the covenants and conditions in the Agreement or the AARP, the Participant shall pay Administrator's additional reasonable costs of enforcement. Such costs shall be equal to Administrator's total documented costs for employee and attorney time expended in securing compliance. In no event shall such additional fees exceed \$500 without Agency's approval. If Agency disapproves such additional fees, Agency shall assume the enforcement function for the specific non-compliance situation then at issue.

Billing and Payment of Fees

The Administrator shall bill/invoice Participant for all fees at the address of record on an annual basis. Participant shall pay fees to the Administrator within fifteen (15) calendar days of the date of the invoice.

FORM OF FIRST AMENDMENT TO THE
AGREEMENT AFFECTING REAL PROPERTY
(INCLUDING RENTAL RESTRICTIONS)

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 SAN DIEGO
c/o Crossroads Redevelopment Project Area
1200 3rd Avenue, 14th Floor
San Diego, CA 92101
Attention: Project Manager

SPACE ABOVE LINE FOR RECORDER'S USE

FIRST AMENDMENT TO THE AGREEMENT AFFECTING REAL PROPERTY
(INCLUDING RENTAL RESTRICTIONS)

This First Amendment to the Agreement Affecting Real Property (the "First Amendment") is entered into by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic (the "Agency") and WAKELAND VILLAGE GREEN APARTMENTS, L.P., a California limited partnership (the "Owner")

For and in consideration of the mutual covenants and conditions herein set forth, the Agency and Owner hereby agree as follows:

I. [§100] PURPOSE OF FIRST AMENDMENT

Owner is the owner of that certain property located at 4140 to 4155 Bonillo Drive in the City of San Diego as more particularly described in the Legal Description attached hereto as Exhibit "A" and incorporated herein by this reference (the "Site"). The Agency and Owner, entered into that certain Owner Participation Agreement dated November 25, 2008, as amended by that certain First Implementation to the OPA dated _____ (collectively referred to herein as the "OPA") incorporated herein by this reference, which provides part of the financing for the rehabilitation of the Site and the use of the Site as a residential rental development consisting of 92 rental apartments, one manager's unit, one manager's office and community room. The 92 rental apartments will include housing that is affordable to Low Income and Very Low Income Persons. Any capitalized term not defined herein shall have the meaning attributed

to such term in the OPA. The Agency and Owner entered into that certain Agreement Affecting Real Property (Including Rental Restrictions) recorded on _____ 2009 in the Official Records of the County Recorder for San Diego County as Document No.-_____ (the "AARP") attached to the OPA as Attachment No. 6 and incorporated herein by this reference. Owner ("Borrower" therein executed a Promissory Note dated _____, 2009 in favor of the Agency in the principal amount of Five Million Seven Hundred Eighty-Eight Thousand Four Hundred and Seventy Five Dollars (\$5,788,475), attached to the OPA at Attachment No. 8 and incorporated herein by this reference which was secured by that certain Subordinate Deed of Trust , Security Agreement and Fixture Filing (With Assignment of Rents) recorded on _____ 2009 in the Official Records of the County Recorder for San Diego County as Document No.-_____, attached to the OPA as Attachment No. 9 and incorporated herein by this reference.

The purpose of the OPA is to effectuate the Redevelopment Plan for the Crossroads Redevelopment Project which was approved on which was approved and adopted on May 6, 2003 by the City Council of the City of San Diego by Ordinance No. 19174[NS], and any amendments thereto. The Crossroads Redevelopment Plan, and any amendments thereto, are incorporated herein by reference and made a part hereof as though fully set forth herein.

The purpose of this First Amendment is to provide for the following revisions to the AARP: (1) Delete references to those rental units only restricted by the San Diego Housing Commission's (the "Housing Commission"); (2) Delete reference to the maximum income and rents applicable to the rental units only restricted by the Housing Commission; and (3) revise any clerical errors.

II. [§ 200] EFFECT OF FIRST AMENDMENT

Except as expressly provided otherwise in this First Amendment, the AARP remains in full force and effect, enforceable in accordance with its terms, without diminution or waiver of any kind of any right or remedy of the Agency thereunder.

III. [§300] RECITALS

Recital E of the AARP is hereby amended to add the following language at the end of the sentence:

"pursuant to that certain Declaration of Covenants, Conditions and Restrictions recorded on October 1, 2009 as Document No. _____ in the Official Records of the County Recorder for San Diego County."

IV. [§400] USE OF THE PROPERTY

The last paragraph in Subparagraph 3.b. (1) of the AARP is hereby deleted in its entirety and replaced with the following:

“Of the 92 rental units to be rehabilitated on the Property, 60 of the residential units shall be occupancy and rent restricted by the Agency, including 58 two-bedroom units and 2 three-bedroom units at CRL Affordable Rent (referred to herein as the “Agency Units” or “Units”).

V. [§500] HOUSING COMMISSION UNITS

Subparagraph 3.b. (3) of the AARP is hereby deleted in its entirety.

VI. [§600] COVENANTS RUNNING WITH THE LAND

Paragraph 6 of the AARP is hereby amended to delete the following language from the second sentence:

“(and the Housing Commission to the extent provided in paragraphs (3) and (7) of subsection 3.b. hereof).”

VII. [§700] SUBORDINATION OF ALL LENDERS

The AARP is hereby amended to add a new Paragraph 15 as follows:

“15. Owner covenants and agrees that this Agreement shall at all times be prior and superior to the liens or charges of any lender, including, but not limited to the charge and lien of that certain Deed of Trust with Assignment of Leases and Rents, Security Agreement and Fixture Filing in favor of the Housing Authority of the City of San Diego, recorded on _____ as Document No. _____ in the Official Records of the County Recorder for San Diego County (the “Official Records”) which was assigned to U.S. Bank National Association pursuant to that certain Assignment of Deed of Trust recorded on _____ as Document No. _____ in the Official Records (“U.S. Bank Loan”), and any other document and instruments executed by Owner in connection with the U.S. Bank Loan; that certain Deed of Trust in favor of the Housing Commission, recorded on _____ as Document No. _____ in the Official Records (the “Housing Commission Loan”) and any other document and instruments executed by Owner in connection with the Housing Commission Loan; and Owner acknowledges and agrees to take all required actions and execute any and all documents necessary to effectuate such subordination of any and all lenders to this Agreement. All subordination agreements executed in connection with this Paragraph 15 shall first be approved in form and substance by the Agency Executive Director or designee.”

VIII. [§800] DUPLICATE ORIGINALS

This First Amendment may be signed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

[signatures on following pages]

IN WITNESS WHEREOF, Agency and Owner have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized this _____ day of _____, 2009.

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

By: _____
Janice Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY:
JAN I. GOLDSMITH
Agency General Counsel

By: _____

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____
Murray O. Kane

[signatures continued on the following page]

WAKELAND VILLAGE GREEN APARTMENTS, L.P.
a California limited partnership

By: Wakeland Village Green Apartments, LLC,
a California limited liability company,
Its Managing General Partner

By: Wakeland Housing and Development
Corporation, a California nonprofit public
benefit corporation its Manager and Sole
Member

By: _____
Kenneth L. Sauder
President and CEO

Exhibit "A"
LEGAL DESCRIPTION

All that certain property located in the City of San Diego, County of San Diego, State of California, described as follows:

[to be inserted]

ACKNOWLEDGMENT

State of California)
County of _____)

On _____ before me, _____,
a Notary Public, personally appeared _____, who proved to me
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

State of California)
County of _____)

On _____ before me, _____,
a Notary Public, personally appeared _____, who proved to me
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

State of California)
County of _____)

On _____ before me, _____,
a Notary Public, personally appeared _____, who proved to me
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in his/her/their
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