

DISPOSITION AND DEVELOPMENT AGREEMENT

(La Entrada Family Apartments)

by and between

**REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO,**

Agency,

and

LA ENTRADA HOUSING INVESTORS, L.P.,

A California Limited Partnership,

Developer.

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DISPOSITION AND DEVELOPMENT AGREEMENT

This Disposition and Development Agreement [Agreement] is entered into by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO [Agency] and LA ENTRADA HOUSING INVESTORS, L.P., a California limited partnership [Developer]. Agency and Developer agree as follows:

PART 1. SUBJECT OF AGREEMENT

Section 101 Purpose of the Agreement

The purpose of this Agreement is to effectuate the Redevelopment Plan for the Barrio Logan Redevelopment Project by providing for the disposition of the Property as well as part of the financing for the development of the hereinafter defined Property, and the use of the Property for housing that is affordable to low and very low income persons. The project shall consist of 85 apartments, 84 of which shall be rented to Low and Very Low Income households, plus one manager unit and associated underground parking. The development and use of the Property pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City of San Diego and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements.

Section 102 Definitions

Except as otherwise provided for in this Agreement or any attachment, for purposes of this Agreement, the following capitalized terms shall have the following meanings:

“Additional Proceeds” shall mean any additional source of funds not identified in the Project Budget and which are applied to project costs identified in the Project Budget, as amended from time to time.

“AHP Funding” shall mean a grant or loan of funds under the Federal Home Loan Bank's Affordable Housing Program to finance a portion of the cost of developing of the Site, as described in the Method of Financing.

“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 10 percent or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, of 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 50 percent 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” as used in this Agreement includes the Redevelopment Agency of the City of San Diego, California acting through its Board, and any assignee or successor to its rights, powers and responsibilities.

“Agency Executive Director” as used in this Agreement includes the Agency Executive Director, Agency Assistant Executive Director or designee.

“Agency Deed of Trust” shall mean the deed of trust securing the Agency Loan, to be recorded upon the occurrence of the Initial Financing Event, subordinate to the deeds of trust securing any Senior Loan, substantially in the form attached to this Agreement as Attachment No. 9.

“Agency Loan” shall mean the Agency Residual Receipts Loan.

“Agency Loan Documents” shall mean the this Agreement, the Agency Residual Receipts Note, Agency Deed of Trust, Assignment of Rents, Assignment of Agreements, Environmental Indemnity and the UCC-1 Financing Statement.

“Agency Residual Receipts Loan” shall mean the residual receipts loan (NOFA funding) from the Agency to Developer in the principal amount not to exceed \$13,167,000, as described in the Method of Financing, which shall be evidenced by the Agency Residual Receipts Note, and secured by the Agency Deed of Trust and the other Agency Loan Documents.

“Agency Residual Receipts Note” shall mean the promissory note substantially in the form attached to this Agreement as Attachment No. 8.

“Approved Title Conditions” shall mean title that is subject to current property taxes and assessments, Permitted Mortgages, the Low Income Housing Tax Credit Regulatory Agreement and any other easements and other encumbrances specifically approved by the Agency Executive Director which approval shall not be unreasonably withheld, conditioned or delayed.

“Assignment of Rents” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 10, to be recorded upon the occurrence of the Initial Financing Event.

“Assignment of Agreements” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 11, to be recorded upon the occurrence of the Initial Financing Event.

“CDLAC” shall mean the California Debt Allocation Committee.

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

“City” shall mean the City of San Diego, California.

“Closing Date” shall mean the date on which the Initial Financing Event is scheduled to take place.

“Completion” shall mean the point in time when all of the following shall have occurred: (1) issuance of a permanent certificate of occupancy by the City of San Diego; (2) recordation of a Notice of Completion by Developer or its contractor; (3) certification by the project architect that construction of the Improvements (with the exception of minor “punch list” items) has been completed in a good and workmanlike manner and substantially in accordance with the approved plans and specifications; and (4) any mechanic’s liens that have been recorded or stop notices that have been delivered have been paid, settled or otherwise extinguished, discharged, released, waived, bonded or insured against.

“Construction Loan” shall mean the construction loan to be made to Developer at the time of the Initial Financing Event, secured by the Construction Loan Deed of Trust.

“Construction Loan Deed of Trust” shall mean the deed of trust securing the Construction Loan.

“Cost Certification” shall mean the certificate issued by an independent tax accountant and signed by the project owner that verifies the actual total project costs and eligible basis incurred.

“Cost Overruns” shall mean any costs which exceed those identified in the Project Budget.

“Cost Savings” shall mean the difference between the Project Budget and Cost Certification after the reduction of the Defined Developer Fee to \$0, so long as the total costs identified in the Cost Certification are less than the total Project Budget.

“Developer Fee” shall mean the fee authorized to compensate Developer for Project.

“Development Costs” shall mean the total cost of development including property acquisition, related closing costs, construction and Developer Fee, as provided for in the Method Financing, Attachment No. 3.

“Disbursement Agreement” shall mean an agreement substantially in the form attached to this Agreement as Attachment No. 15.

“Environmental Indemnity” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 12.

“Escrow Agent” shall mean Chicago Title Insurance Company, or another escrow agent mutually acceptable to Agency and Developer.

“Grant Deed” shall mean the Grant Deed (Including Rental Restrictions) to be recorded upon the occurrence of the Initial Financing Event, substantially in the form attached to this Agreement as Attachment No. 7.

“Hazardous Materials” shall have the meaning set forth in the Environmental Indemnity.

“Improvements” or ‘Project” shall mean the residential rental apartments and associated underground and sub-terrain parking garage to be constructed on the Property, consisting of 85 apartments, 84 of which will be Very Low and Low Income residential apartments, plus one manager unit, all as described in the Scope of Development.

“Initial Financing Event” shall mean shall mean the point in time when (i) the payment to the Agency of the Purchase Price for the Property; (ii) the Construction Loan and all other sources of construction financing (loans and equity) are available, and (iii) the Agency Deed of Trust and other Agency Loan Documents and the Grant Deed are recorded.

“Legal Description” shall mean the description of the Property attached to this Agreement as Attachment No. 2.

“Low Income” shall have, for purposes of this Agreement, the same meaning set forth in California Health & Safety Code section 50079.5.

“Method of Financing” shall mean Attachment No. 3 to this Agreement.

“Mortgagee” shall mean any maker of a Permitted Mortgage Loan to Developer.

“Permitted Mortgage” shall mean any conveyance of a security interest in the Property to one or more Mortgagees to secure any loan to finance the development of the Property as required by this Agreement, specifically including the Construction Loan, the Permanent Loan, and any other loan specifically described in the Method of Financing or any loan to refinance the Construction Loan, Permanent Loan or other loan specifically described in the 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.

“Permanent Loan” shall mean the permanent loan to repay a portion of the Construction Loan, as described in the Method of Financing.

“Permanent Loan Deed of Trust” shall mean the deed of trust securing the Permanent Loan.

“Permitted Mortgage Loan” shall mean the obligations secured by a Permitted Mortgage.

“Permitted Transfer” shall mean any of the following:

- (1) Any Permitted Mortgage;
- (2) A conveyance of the Property to any Affiliate or a sale back from such Affiliate to Developer;
- (3) The contribution of capital to the Developer and the admission to Developer of the Tax Credit Equity Investor;
- (4) The lease for occupancy of all or any part of the Improvements on the Property;

(5) The granting of easements or permits to facilitate the development of the Property in accordance with this Agreement; and

(6) Neither Agency's consent to nor the payment of fees, costs and expenses in connection with the removal and replacement of Borrower's general partner shall be required provided that the removed general partner is replaced by an Affiliate (as hereinafter defined) of Developer's existing limited partner. For the purposes of this subsection, the term "Affiliate" shall mean Affordable Multi-Family, LLC, Simpson Housing LLLP, Simpson Housing Solutions, LLC (each a "Simpson Entity" and collectively, "Simpson Entities") or any entity in which a Simpson Entity or Simpson Entities is a "controlling person" (as defined in Section 20(a) of the Securities Exchange Act of 1934, as amended) or in which a Simpson Entity or Simpson Entities is the (a) general partner, (b) managing member, or (c) limited partner or investor member owning more than 49% of the limited partner or membership interests in such limited partnership or limited liability company, as the case may be. If such a removal or replacement of Developer's general partner occurs, Developer shall immediately inform the Agency of such action and the reason for the action.

Any transfer described in clauses (1) through (4) shall be subject to the reasonable approval of the Agency Executive Director or designee in accordance with the standards set forth in the respective provisions of this Agreement.

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

"Project Budget" shall mean the Development Costs shall be as set forth in Project Budget attached as Attachment No. 7, and subsequent amendments thereto.

"Property" shall mean the real property described in Section 104 hereof.

"Redevelopment Plan" shall mean the Redevelopment Plan for the Barrio Logan Redevelopment Project which was approved and adopted on May 20, 1991 by the City Council of the City of San Diego by Ordinance No. O-17644, including subsequent amendments. The Redevelopment Plan is incorporated by this reference as though fully set forth in this Agreement.

"Release of Construction Covenants" shall mean the certificate to be issued by the Agency in accordance with Section 424 of this Agreement.

"Schedule of Performance" shall mean the document attached to this Agreement as Attachment No. 5.

"Scope of Development" shall mean the document attached to this Agreement as Attachment No. 4.

"Senior Loans" shall mean the Construction Loan and the Permanent Loan and any loan refinancing such Construction Loan and Permanent Loan.

“Site Plan and Concept Drawings” or “Site Plan” shall mean the document which is attached to this Agreement as Attachment No. 1.

“Subordination Agreement” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 14.

“Tax Credit Equity Investor” shall mean a Person who is or will be an investor in, and a limited partner of Developer and who will contribute capital to Developer in exchange for limited partnership interests of Developer.

“Title Company” shall mean Chicago Title Insurance Company, or another title insurance company mutually acceptable to Agency and Developer.

“Title Insurance Policies” shall mean and include the following ALTA extended coverage policies of title insurance issued by the Title Company, subject to the Approved Title Conditions:

- (1) A mortgagee's policy of title insurance in favor of each Permitted Mortgagee, together with such endorsements as the Permitted Mortgagee may reasonably require, insuring the lien of the Permitted Mortgage, in the amount of the Permitted Mortgage [Lender's Title Policy]; and
- (2) A mortgagee's policy of title insurance in favor of Agency, together with such endorsements as Agency may reasonably require, insuring the lien of the Agency Deed of Trust, in the amount of the Agency Loans [Agency's Title Policy].

“UCC-1” shall mean a Financing Agreement, substantially in the form attached to this Agreement as Attachment No. 13.

“Universal Design” shall mean the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design consistent with The Seven Principles of Universal Design developed by North Carolina State University’s Center for Universal Design and includes the Universal Design Checklist attached as Attachment No. 17.

“Very Low Income” shall have, for purposes of this Agreement, the same meaning set forth in California Health & Safety Code section 50105.

Section 103 The Redevelopment Plan

This Agreement is subject to the provisions of the Redevelopment Plan for the Barrio Logan Redevelopment Project which was approved and adopted on May 20, 1991 by the City Council of the City of San Diego by Ordinance No.17644, including subsequent amendments made prior to the date of this Agreement. The Redevelopment Plan is incorporated by this reference as though fully set forth in this Agreement.

Section 104 The Property

The "Property" is that property in the Barrio Logan Redevelopment Project Area of the City of San Diego, illustrated on the "Site Plan" (attached hereto as Attachment No. 1) and as described in the "Legal Description of the Property" (attached hereto as Attachment No. 2).

Section 105 Agency

a. Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California.

b. The address of the Agency for purposes of receiving notices pursuant to this Agreement shall be 600B Street, Suite 400, San Diego, California 92101.

Section 106 Developer

a. Developer is LA ENTRADA HOUSING INVESTORS, L.P., a California limited partnership. The address of Developer for purposes of receiving notices pursuant to this Agreement is 531 Encinitas Boulevard, Suite 206, Encinitas, CA 92024 with a copy to Multi-Housing Investments, LLC at 320 Golden Shore, Suite 200, Long Beach CA 90802 and United Community, Inc. 27068 La Paz Road #138, Aliso Viejo, CA 92656.

b. Whenever the term "Developer" is used herein, such term shall mean and include: (1) the Developer as of the date hereof; or (2) any other assignee of, or successor to its rights, powers and responsibilities permitted by this Agreement.

Section 107 Assignments and Transfers

a. Developer represents and agrees that its undertakings pursuant to this Agreement are for the purpose of redeveloping and providing affordable housing on the Property, and not for speculation in land holding. Developer further recognizes that the qualifications and identity of Developer are of particular concern to the City and the Agency, in light of the following: (1) the importance of the redevelopment of the Property to the general welfare of the community; (2) the public assistance that has been made available by law and by the government for the purpose of making such redevelopment possible; and (3) the fact that a change in ownership or control of Developer or any other act or transaction involving or resulting in a significant change in ownership or control of Developer, is for practical purposes a transfer or disposition of the property then owned by Developer. Developer further recognizes that it is because of such qualifications and identity that the Agency is entering into the Agreement with the Developer. Therefore, no voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

b. Prior to Completion, Developer shall not assign all or any part of this Agreement, or any interest herein, without the prior written approval of the Agency. Subject to review of documentation effectuating any such proposed assignment or transfer, the Agency agrees to reasonably give such approval if the assignment is a Permitted Transfer.

c. For the reasons cited above, the Developer represents and agrees for itself, each member and any successor in interest of itself and each member that prior to Completion, without the prior written approval of the Agency, there shall be no significant change in the ownership of the Developer or in the relative proportions thereof, or with respect to the identity of the parties in control of the Developer or the degree thereof, by any method or means, except Permitted Transfers.

d. Any assignment or transfer of this Agreement or significant change in ownership of the Developer, other than a Permitted Transfer, shall require the approval of the Agency, which shall not be unreasonably withheld. To the extent Agency approval of an assignment or transfer is required by this Agreement, in granting or withholding its approval, Agency shall base its decision upon the relevant experience, financial capability and reputation of the proposed assignee or transferee and the effect, if any, of such proposed transfer on the public purposes of this Agreement. In addition, Agency shall not approve any assignment or transfer of this Agreement or any interest herein or significant change in ownership of the Developer that results in payment of consideration to any Person prior to the issuance of the Release of Construction Covenants and that is not conditioned upon the issuance of the Release of Construction Covenants.

e. The Developer shall promptly notify the Agency of any and all changes whatsoever in the identity of the parties in control of the Developer or Assignee, or the degree thereof, of which it, or any of its officers have been notified or otherwise have knowledge or information. Except for Permitted Transfers, this Agreement may be terminated by the Agency if there is any significant change (voluntary or involuntary) in membership, management or control, of the Developer or Assignee or its members (other than such changes occasioned by the death or incapacity of any individual) prior to Completion.

f. The restrictions of this Section 107 shall terminate upon the Completion.

PART 2 ACQUISITION AND DISPOSITION OF THE PROPERTY

Section 201 Acquisition of the Property

a. Within the time frame set forth in the Schedule of Performance, Developer shall assign to the Agency any and all purchase contracts it has for the acquisition of the Property.

b. In accordance with and conditioned on all the terms, covenants, and conditions of this Agreement and subject to specific Agency determinations and authorizations as required by applicable law and made on a case-by-case basis, and in consideration of the performance by each party of all of its obligations under this Agreement, the Agency hereby agrees (i) to acquire the Property with Agency Residual Receipt Loan (NOFA) funds, which Property consists of nine parcels (APN # 538-050-15 thru 24, 26, 27 & 31), located on the south side of Logan Avenue, between Sigsbee Street and Beardsley Street in accordance with the Agreement; and (ii) to use good faith efforts in acquiring title to the Property, or interest therein, in accordance with the terms of this Agreement, in order to further the purposes of the Redevelopment Plan and this Agreement and to facilitate the redevelopment of the Property approved by the Agency pursuant to the Redevelopment Plan and this Agreement, including without limitation the creation of

unified ownership and control of the redeveloped Property in Developer, and to sell the Property to the Developer pursuant to the terms of this Agreement. The Agency may, in its sole discretion, decide either to limit its attempts to acquire the Property or any portion thereof, or to voluntarily negotiate with property owners or to consider exercising the power of eminent domain, which power will be exercised, if at all, in the sole and absolute discretion of the Agency.

c. Upon Agency's acquisition of title to the Property, or any portion thereof (and/or upon obtaining orders of prejudgment possession meeting the requirements for conveyance), and upon satisfaction of any conditions precedent to the Close of Escrow that are for the benefit of Developer, the Developer agrees to purchase the Property from the Agency, for the consideration and subject to the terms, conditions and provisions set forth in this Agreement

d. Within the time frame set forth in the Schedule of Performance, Developer shall assign to the Agency any and all purchase contracts it has for the acquisition of the Property.

e. Notwithstanding paragraph (a) of this Section or any other provision of this Agreement, Agency shall have the right in its discretion to terminate this Agreement at any time prior to the Close of Escrow in the event there is any uncured default by Developer under this Agreement.

Section 202. Relocation of Tenants and Occupants of the Site

Agency shall be responsible, at Developer's sole cost and expense (using any source of funds available to Developer for such purpose), for relocating all tenants and occupants of the Property in accordance with all applicable relocation laws and requirements, and the mutually approved relocation budget entered into by the Agency and the Developer. To implement this Section 202, Developer shall from time to time advance to Agency, upon request, such funds as the Agency Executive Director or designee shall reasonably determine are necessary for the payment of relocation benefits to displaced persons, or the Agency shall use Residual Receipts Loan (NOFA) funds for this purpose. Developer shall defend, indemnify and hold harmless Agency and its officers, employees, agents, contractors and attorneys from any claims, liabilities, injury, damages, costs and expenses (including, without limiting the generality of the foregoing, attorneys' fees) relating to the payment of relocation costs, which may be sustained as the direct result of the relocation of any person from the Property.

Section 203 Sale and Purchase

a. Agreement to Sell and Purchase. In accordance with and subject to all the terms, covenants, and conditions of this Agreement, the Agency agrees to sell to the Developer and the Developer agrees to purchase the Property.

b. Purchase Price. Developer agrees to pay the Purchase Price for the Property as provided in the Method of Financing, determined in accordance with California Health and Safety Code Section 33433.

Section 204 Escrow

a. Within thirty (30) days prior to the scheduled Closing Date set forth in the Schedule of Performance, Agency agrees to open an escrow in the City of San Diego with the Title Company or such other escrow agent as may be acceptable to both the Agency and the Developer (the "Escrow Agent") as escrow agent for conveyance of the Property. Sections 104 through 107 and 201 through 212 (inclusive) of this Agreement shall constitute the joint escrow instructions of the Agency and the Developer with respect to the sale of the Property, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of escrow.

The Agency and the Developer shall provide such additional escrow instructions consistent with this Agreement as shall be necessary. The Escrow Agent is empowered to act under such instructions, and upon indicating its acceptance in writing, delivered to the Agency and to the Developer within 5 days after opening of the escrow, the Escrow Agent shall carry out its duties as Escrow Agent pursuant to the Agreement.

b. Upon delivery to the Escrow Agent of the Agency Residual Receipts Note, Agency Deed of Trust, Assignment of Rents, Assignment of Agreements, Environmental Indemnity, UCC-1 Financing Statement and the Grant Deed, fully executed by the applicable parties, the Escrow Agent shall record these documents (as well as any other instruments to be recorded by the Escrow Agent in connection with the financing described in the Method of Financing) in accordance with these escrow instructions, provided that title to the Property can be vested in the Developer in accordance with the terms and provisions of this Agreement. The Escrow Agent shall buy, affix, and cancel any transfer stamps required by law. Any insurance policies governing the Site are not to be transferred.

c. The Developer shall pay in escrow to the Escrow Agent the following fees, charges and costs promptly after the Escrow Agent has notified the Developer of the amount of such fees, charges, and costs, but not earlier than ten (10) days prior to the scheduled date for the conveyance of the Property:

1. The escrow fee;
2. The premium for the title insurance policy to be issued to the Developer as set forth in Section 210 of this Agreement
3. Cost of drawing the deed;
4. Recording fees;
5. Notary fees; and
6. Any State, County, or City documentary stamps or transfer tax.
7. Ad valorem taxes, if any, upon the Site or upon this Agreement or any rights under this Agreement prior to the conveyance of title or possession.

d. The Agency shall timely and properly execute, acknowledge and deliver the Grant Deed conveying to the Developer title to the Property in accordance with the requirements of this Agreement, and deliver the executed and acknowledged Grant Deed, together with an estoppel certificate certifying that the Developer has completed all acts necessary to entitle the Developer to such conveyance, if such be the fact.

e. The Escrow Agent is authorized to:

1. Pay, and charge the Agency and the Developer, respectively, for any fees, charges and costs payable under this Section 204 of this Agreement. Before such payments are made, the Escrow Agent shall notify the Agency and the Developer of the fees, charges and costs necessary to clear title and close the escrow.

2. Disburse funds and deliver the Grant Deed, the Agency Deed of Trust and other documents to the entitled parties when the conditions of this escrow have been fulfilled by the Agency and the Developer. The Grant Deed shall not be recorded unless and until the Escrow Agent is also prepared to record the Agency Deed of Trust, and the Title Company is committed to issue the Title Insurance Policies.

3. Record any instruments delivered through this escrow if necessary or proper to vest title in the Developer in accordance with the terms and provisions of this Agreement.

f. All funds received in this escrow shall be deposited by the Escrow Agent in a general escrow account with any state or national bank doing business in the State of California and reasonably approved by the Developer and the Agency, and may be combined in such with other escrow funds of the Escrow Agent.

g. If this escrow is not in condition to close on or before the time for conveyance set forth in the Schedule of Performance, either party who then shall have fully performed the acts to be performed before the conveyance of title may, in writing, demand the return of its money, papers, or documents from the Escrow Agent. No demand for return shall be recognized until 10 days after the Escrow Agent (or the party making such demand) shall have mailed copies of such demand to the other party or parties at the address of its principal place of business. Objections, if any, shall be raised by written notice to the Escrow Agent and to the other party within the 10-day period, in which event the Escrow Agent is authorized to hold all money, papers, and documents with respect to the Site until instructed by a mutual agreement of the parties or, upon failure, by a court of competent jurisdiction. If no such demands are made, the escrow shall be closed as soon as possible.

h. If objections are raised as above provided for, the Escrow Agent shall not be obligated to return any such money, papers, or documents except upon the written instructions of both the Agency and the Developer, or until the party entitled has been determined by a final decision of a court of competent jurisdiction. If no such objections are made within said 10-day period the Escrow Agent shall immediately return the demanded money, papers, or documents.

i. The parties understand they may be required to execute additional standard form escrow instructions required by the Escrow Agent [General Instructions]. In the event of a

conflict between this Agreement and any such General Instructions, this Agreement shall control. The parties agree, however, that they will refuse to sign General Instructions which (1) purport to relieve the Escrow Agent of liability for negligence or intentional wrong-doing; (2) excuse the Escrow Agent from strict compliance with each and all of the provisions of this document and the General Instructions; or (3) purport to authorize the Escrow Agent to follow the instructions or directive of any person not a direct signatory party to this Agreement. Any amendment to the escrow instructions shall be in writing and signed by both the Agency and the Developer. At the time of any amendment the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

j. All communications from the Escrow Agent to the Agency or the Developer shall be directed to the addresses set forth in Sections 105 and 106 of this Agreement, and in the manner set forth in Section 701 of this Agreement for notices between the parties.

i. Prorations.

(1) General. Rentals, revenues, and other income, if any, from the Property, and operating expenses, if any, affecting the Property shall be prorated as of 11:59 P.M. on the day preceding the Close of Escrow. For purposes of calculating prorations, Agency shall be deemed to be in title to the Property, and therefore entitled to the income and responsible for the expenses, for the entire day upon which the Close of Escrow occurs.

(2) Taxes and Assessments. All non-delinquent real estate taxes on the Property shall be prorated as of the Close of Escrow based on the actual current tax bill, but if such tax bill has not yet been received by Agency by the Close of Escrow then current year's taxes shall be deemed to be one hundred two percent (102%) of the amount of the previous year's tax bill, adjusted in accordance with paragraph (4), below. All delinquent taxes and all assessments, if any, on the Property shall be paid at the Close of Escrow by Agency and included as part of Development Costs. The Agency may use Residual Receipts Loan (NOFA) funding to pay this cost.

(3) Operating Expenses. Any other expenses incurred in operating the Property that Agency customarily pays, and any other costs incurred in the ordinary course of business or the management and operation of the Property shall be prorated on an accrual basis. Agency shall pay all such expenses that accrue prior to the Close of Escrow and Developer shall pay all such expenses accruing on the Close of Escrow and thereafter. The Agency may use Residual Receipts Loan (NOFA) funding to pay this cost.

(4) Method of Proration. All prorations shall be made in accordance with customary practice in San Diego County, except as expressly provided in this Agreement. Agency and Developer agree to cause their accountants or agents to prepare a schedule of tentative prorations prior to the Close of Escrow. Such prorations, if and to the extent known and agreed upon as of the Close of Escrow, shall be paid into Escrow by the respective parties. Any such prorations not determined or not agreed upon as of the Close of Escrow shall be paid by Agency to Developer, or by Developer to Agency, as the case may be, in cash as soon as practical following the Close of Escrow. A copy of the schedule of prorations as agreed upon by

Agency and Developer shall be delivered to Escrow Agent at least three (3) business days prior to the Closing Date.

k. Agency and Developer shall each pay their legal and professional fees and fees of other consultants incurred by Agency and Developer, respectively.

Section 205 Conveyance of Title and Delivery of Possession

a. Subject to any mutually agreed upon extension of time, the Agency shall convey title to the Property to the Developer on or before the scheduled Closing Date (so long any, and as all conditions precedent have been satisfied), or such later date mutually agreed to in writing by the Agency and the Developer and communicated in writing to the Escrow Agent.

b. Except as otherwise provided in this Agreement possession of the Property shall be delivered to the Developer at the Close of Escrow. The Developer shall accept title and possession to the Property upon the Close of Escrow.

Section 206 Form of Grant Deed

a. The Agency shall convey to the Developer title to the Property in the condition provided in Section 207 of this Agreement by Grant Deed in a form to be mutually agreed upon by the Agency and the Developer consistent with this Agreement and substantially in the form attached and incorporated as Attachment No. 6. The Grant Deed shall contain covenants necessary or desirable to carry out this Agreement.

b. Notwithstanding the foregoing paragraph (a) or any other provision in this Agreement to the contrary, if at or prior to the date for conveyance of title to the Property to the Developer as set forth in the Schedule of Performance, the Agency has not obtained title to the Property, or portion thereof, but has obtained an order for possession prior to judgment [Order], authorizing the Agency to take possession the Property, or portion thereof, the Agency shall convey its interest in such Property, or portion thereof and the Developer shall accept such interest, if the following conditions are met:

(1) The Agency delivers exclusive possession of the Property, or portion thereof, to the Developer by a lease acceptable to the Title Company, on or prior to the time set for conveyance; and

(2) All occupants have relocated from the Property, or portion thereof; and

(3) The right of possession which the Developer acquires from the Agency is such that the Title Company will issue a policy or policies of title insurance insuring the Developer's leasehold interest, subject to only those items described in the first full paragraph (a) of this Section 206; and

(4) The Developer is able to obtain financing for the development of the Property on the basis of said title insurance policy or policies; and

(5) The Agency diligently proceeds with all condemnation actions until a final judgment is rendered, and said judgment authorizes the taking, and the time for appeal has expired pursuant to law.

c. In the event the Agency tenders possession of the Property, or portion thereof, as provided in this Agreement, the Developer shall not terminate this Agreement, but shall accept such right of possession and shall proceed with the development of the Property.

d. All references to conveyance of title to the Property in this Agreement shall also mean delivery of possession as referred to in this Section as the context may require.

Section 207 Condition of Title

Subject to Section 201 and Section 206 of this Agreement, the Agency shall convey to the Developer fee title to the Property free and clear of all liens, encumbrances, assessments, easements, leases and taxes [Title Exceptions]; except (i) those which are set forth in the Grant Deed, substantially in the form attached and incorporated as Attachment No. 6, and (ii) those which are accepted in writing by the Developer.

Section 208 Time and Place for Delivery of Grant Deed

Subject to any mutually agreed-upon extension of time, the Agency shall deposit the Grant Deed with the Escrow Agent on or before the scheduled Closing Date.

Section 209 Conditions Precedent to Close of Escrow

The Close of Escrow and the obligations of the Agency and Developer hereunder are subject to the satisfaction prior to the Close of Escrow (unless otherwise provided), of the following conditions, and the obligations of the parties with respect to such conditions are as follows:

a. Title. Agency shall have obtained title to the Property (which may include possession pursuant to Order of Prejudgment Possession), free and clear of any and all encumbrances, except the Approved Title Conditions.

b. Representations, Warranties and Covenants

(1) Developer shall have duly performed each and every agreement to be performed by Developer hereunder and Developer's representations, warranties and covenants set forth in this Agreement shall be true and correct as of the date of the Close of Escrow.

(2) Agency shall have duly performed each and every agreement to be performed by Agency hereunder and Agency's representations, warranties and covenants set forth in this Agreement shall be true and correct as of the date of the Close of Escrow.

c. Deliveries.

(1) Developer shall have delivered the items to be delivered by Developer, when and as required in this Agreement.

(2) Agency shall have paid any Deposits into escrow and delivered the items to be delivered by Agency, when and as required by this Agreement.

d. Conditions Precedent. As of the Close of Escrow, all of the Conditions Precedent to Conveyance of Title as set forth in the Method of Financing shall have been satisfied.

e. Title Insurance. As of the Close of Escrow, the Title Company shall be committed to issue the Title Insurance Policies.

f. Failure of Conditions to Close of Escrow. In the event any of the conditions precedent to the Close of Escrow are not timely satisfied or waived, for a reason other than the default of Agency or Developer, the following shall apply:

(1) Either party shall have the right to terminate this Agreement, the Escrow and the rights and obligations of Agency and Developer hereunder, except as otherwise provided herein; and

(2) Escrow Agent is instructed to promptly return to Developer and Agency all funds, if any, and documents deposited by them, respectively, into Escrow which are held by Escrow Agent on the date of said termination (less, in the case of the party otherwise entitled to such funds, however, the amount of any cancellation charges required to be paid by such party under paragraph g.; and

(3) Neither party shall have any further rights or obligations hereunder except as otherwise provided in this Agreement.

g. Cancellation Fees and Expenses. In the event this Escrow terminates because of the non-satisfaction of any condition for a reason other than the default of Agency or Developer under this Agreement, the cancellation charges, if any, required to be paid by and to Escrow Agent and the Title Company shall be borne by Developer and all other charges shall be borne by the party incurring same. In the event either party terminates this Agreement pursuant to any provision of this Agreement, the cancellation charges, if any, required to be paid by and to Escrow Agent and the Title Company shall be borne by the party who has terminated this Agreement, and all other charges shall be borne by the party incurring same.

h. Disbursements and Other Actions to be taken by the Escrow Agent. At the Close of Escrow, Escrow Agent shall promptly undertake all of the following in the manner indicated below:

(1) Cause the Grant Deed, and any other documents which the Parties may mutually direct, to be recorded in the Official Records of the County Recorder of San Diego County, and obtain conformed copies for distribution to Agency and Developer.

(2) Direct the Title Company to issue the Owner's Title Insurance Policy to Developer, the Agency's Title Policy to the Agency and the Lenders' Title Insurance Policies to the Permitted Mortgagees.

(3) Prepare and distribute to Developer and Agency each, copies of both parties' escrow closing statements and a complete copy of all documents handled by Escrow.

Escrow Agent agrees that recordation of the Grant Deed shall irrevocably commit Escrow Agent, on behalf of Title Company, to issue the Title Policies in accordance with this Agreement.

Section 210 Title Insurance

Concurrent with recordation of the Grant Deed, the Title Company shall provide and deliver the Title Insurance Policies to the respective insured parties. Agency shall be obligated only to pay the title insurance premium for the Owner's Title Insurance Policy to the extent of a standard coverage CLTA title insurance policy on the Site in the amount of the Purchase Price. The Developer shall be responsible for paying the premium for the following: (a) any additional title insurance, including any extended coverage or special endorsements which it requests; (b) the Lenders' Title Insurance Policies; and (c) the Agency's Title Insurance Policy. Agency may use Residual Receipts Loan (NOFA) funding to pay this cost.

Section 211 Taxes and Assessments

Ad valorem taxes and assessments, if any, on the Property, and taxes upon this Agreement or any rights pursuant to the Agreement levied, assessed or imposed for the period prior to conveyance of title or possession of the Property to the Developer, shall be borne by the Agency and included as part of Development Costs. Agency may use Residual Receipts Loan (NOFA) funding to pay this cost.

Section 212 Occupants of the Property

The Agency agrees that title to the Property shall be conveyed free of any possession or right of possession except that of the Developer, unless waived by the Developer in writing.

PART 3. FINANCING

Section 301 Method of Financing

The Project shall be financed with a combination of sources of financing as provided in the Method of Financing, attached to this Agreement as Attachment No. 3.

Section 302 Agency Assistance

a. Agency Residual Receipts Loan. In accordance with and subject to the terms and conditions of this Agreement, including the Method of Financing, the Agency agrees to lend to the Developer, and the Developer agrees to borrow from the Agency, the Agency Residual

Receipts Loan, as defined in the Method of Financing. At or prior to the Initial Financing Event, the Agency and Developer shall execute and deliver such instruments and documents as may be necessary to evidence and secure the Agency Residual Receipts Loan, consistent with the terms of this Agreement and the Method of Financing, and each in a form that is acceptable to the Agency Executive Director or designee.

b. Gap Assistance. 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 Development and the maximum loans obtainable by Developer plus Developer'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 Loans shall be used exclusively to pay Development Costs identified in the Project Budget, including Property acquisition. In the event the actual amount of the Development Costs is less than \$37,941,000, or in the event any of the permanent financing sources are greater than the respective amounts set forth in the Method of Financing, the principal amount of Agency Residual Receipts Loan shall be reduced dollar-for-dollar.

Section 303 Submission of Evidence of Financing

a. Within the time established in the Schedule of Performance, the Developer shall submit to the Agency evidence reasonably satisfactory to the Agency that the Developer has obtained the financing necessary for the development of the Property in accordance with this Agreement. Such evidence of financing shall include the following:

- (1) A copy of the commitment or commitments obtained by the Developer for the Construction Loan, and any other commitments (all as described in the Method of Financing) to finance the construction of the Improvements, certified by the Developer to be a true and correct copy or copies thereof;
- (2) A copy of the contract between the Developer and the general contractor or major subcontractors for the construction of the Improvements, certified by the Developer to be a true and correct copy thereof;
- (3) A copy of substantially complete Construction Loan Documents (e.g., notes, trust deeds, indentures, loan agreements, etc.);
- (4) Documentation of the commitment of the Tax Credit Equity Investor to provide equity funds consistent with the Method of Financing; and
- (5) Documentation of other sources of capital sufficient to demonstrate that the Developer has adequate equity funds committed to provide the amount of Developer Equity required by the Method of Financing.

b. The Agency shall approve or disapprove such evidence of financing within the time established in the Schedule of Performance. Such approval shall not be unreasonably withheld, conditioned or delayed. If the Agency shall disapprove any such evidence of financing, the Agency shall do so by written notice to the Developer stating the reasons for such disapproval. Agency shall provide Developer a 30-day period to cure the deficiencies in Developer's evidence of financing. Should Developer be unable to cure the deficiencies within

thirty days, Agency will grant a reasonable extension for Developer to provide such cure so long as the cure is commenced within the 30-day period.

PART 4. DEVELOPMENT OF THE PROPERTY

Section 401 Land Use Approvals

It is the responsibility of the Developer, without cost to Agency, to ensure that zoning of the Property and all applicable City land use requirements will be such as to permit development of the Property and construction of the Improvements and the use, operation and maintenance of such Improvements in accordance with the provisions of this Agreement. It shall be a condition of the Initial Financing Event that Developer obtain all entitlements, approvals, variances and permits necessary for the construction of the Improvements. Nothing contained herein shall be deemed to entitle Developer to any City of San Diego permit or other City approval necessary for the development of the Property, or waive any applicable City requirements relating thereto. This Agreement does not (a) grant any land use entitlement to Developer, (b) supersede, nullify or amend any condition which may be imposed by the City of San Diego in connection with approval of the development described herein, (c) guarantee to Developer or any other party any profits from the development of the Property, or (d) amend any City laws, codes or rules. This is not a Development Agreement as provided in California Government Code section 65864. Without cost to Agency, Agency shall provide appropriate technical assistance to Developer in connection with Developer's obtaining all necessary entitlements, permits and approvals for the construction of the Improvements.

Section 402 Condition of the Property

a. Agency makes no representation or warranty, express or implied, regarding any conditions of the Property. It shall be the sole responsibility of the Developer, at the Developer's expense, to investigate and determine all conditions of the Property and its suitability for the uses to which the Property is to be put in accordance with this Agreement. If the conditions of the Property are not in all respects entirely suitable for the use or uses to which the Property will be put, then it is the sole responsibility and obligation of the Developer, without cost to Agency, to take such action as may be necessary to place the Property in all respects in a condition entirely suitable for its development and use in accordance with this Agreement.

b. Developer agrees to perform and be solely responsible for the clean-up of any Hazardous Materials on, in, under or within the Property, at the sole cost, risk and expense of Developer. Developer shall defend, indemnify and hold harmless the Agency and City and its officers, agents, employees, contractors and attorneys from any claims, liability, injury, damages, costs and expenses (including, without limiting the generality of the foregoing, the cost of any required clean up of hazardous substances, and the cost of attorneys' fees) which may be sustained as the result of the presence or clean up of hazardous substances on, in, or under the Property. As a condition precedent to the Initial Financing Event, Developer shall execute and deliver to the Agency the Environmental Indemnity (Attachment No. 13).

Section 403 Scope of Development

The Property shall be developed in accordance with and within the limitations established in the Scope of Development attached to this Agreement as Attachment No. 4.

Section 404 Basic Concept and Schematic Drawings

a. The Developer shall prepare and submit Basic Concept and Schematic Drawings and related documents for the development of the Property to the Agency for review and written approval within the time established in the Schedule of Performance. Basic Concept and Schematic Drawings shall include a site plan, elevations and sections of the improvements as they are to be developed and constructed on the Property.

b. The Property shall be developed as established in the Basic Concept and Schematic Drawings and related documents except as changes may be mutually agreed upon between the Developer and the Agency Executive Director. Any such changes shall be within the limitations of the Scope of Development.

c. The Developer shall incorporate Universal Design components into the Project and specifically comply with the items outlined in the Agency's Universal Design Checklist, attached Attachment No. 17. The Agency, may, in its discretion, grant a written exception to one or more of the requirements listed on the Checklist, but only in circumstances where the Developer demonstrates why incorporating the Universal Design component would be infeasible.

Section 405 Landscaping and Grading Plans

a. The Developer shall prepare and submit to the Agency Executive Director for approval preliminary and final landscaping and preliminary and finish grading plans for the Property. These plans shall be prepared and submitted within the times established in the Schedule of Performance.

b. The landscaping plans shall be prepared by a professional landscape architect and the grading plans shall be prepared by a licensed civil engineer. Such landscape architect and/or civil engineer may be the same firm as the Developer's architect. Within the times established in the Schedule of Performance, the Developer shall submit to the Agency Executive Director for approval the name and qualifications of its architect, landscape architect and civil engineer.

Section 406 Construction Drawings and Related Documents

a. The Developer shall prepare and submit construction drawings and related documents [collectively called the "Plans"] to the Agency for review (including but not limited to architectural review), and written approval in the times established in the Schedule of Performance (Attachment No. 3). Such construction drawings and related documents shall be submitted as 50 percent and Final Construction Drawings. Final Construction Drawings are hereby defined as those in sufficient detail to obtain a building permit.

b. Approval of progressively more detailed Plans will be promptly granted by the Agency Executive Director if developed as a logical evolution of Plans.

c. During the preparation of all Plans, the Agency Executive Director and the Developer shall hold progress meetings, as needed, to coordinate the preparation of, submission to, and review of Plans and related documents by the Agency Executive Director. The Agency Executive Director and the Developer shall communicate and consult informally as frequently as is necessary to insure that the formal submittal of any documents can receive prompt and speedy consideration.

d. If any revisions or corrections of Plans approved by the Agency shall be required by any government official, agency, department, or bureau having jurisdiction over the development of the Property, the Developer and the Agency Executive Director shall cooperate in efforts to obtain waiver of such requirements or to develop a mutually acceptable alternative.

Section 407 Agency Approval of Plans

a. Subject to the terms of this Agreement, the Agency shall have the right of review (including without limitation architectural review) of all Plans and submissions, including any proposed substantial changes to any such Plans or submissions approved by Agency. The Agency shall approve or disapprove the Plans referred to in Section 404 within the time established by the Schedule of Performance. The Agency Executive Director shall approve or disapprove of the Plans referred to in Sections 405 and 406 of this Agreement within the times established in the Schedule of Performance. Any disapproval shall state in writing the reasons for disapproval and the changes which the Agency Executive Director requests to be made. Such reasons and such changes must be consistent with the Scope of Development and any items previously approved hereunder. The Developer, upon receipt of a disapproval based upon powers reserved by the Agency hereunder shall revise the Plans, and shall resubmit to the Agency or Agency Executive Director, as applicable, as soon as possible after receipt of the notice of disapproval.

b. If the Developer desires to make any substantial change in the Final Construction Drawings after their approval, such proposed change shall be submitted to the Agency for approval.

Section 408 Demolition and Soil Remediation

a. Developer shall be responsible, at its own cost and expense (using any source of funds available to Developer for such purpose), for the demolition of existing structures. Prior to initiation of demolition, Developer shall contact the City's Environmental Services Department to obtain the appropriate approvals.

b. Developer shall be responsible, at Developer's cost and expense, for the soil remediation of the Property. In doing so, Developer shall contact the City's Environmental Services Department to obtain the appropriate approvals. Developer agrees to comply with all federal, state and local laws in any activities related to soil remediation.

Section 409 Schedule of Performance

a. Each party to this Agreement shall perform the obligations to be performed by such party pursuant to this Agreement within the respective times provided in the Schedule of Performance, and if no such time is provided, within a reasonable time. The Schedule of Performance shall be subject to amendment from time to time upon the mutual agreement of the Agency and Developer.

b. After the Initial Financing Event, the Developer shall promptly begin and thereafter diligently prosecute to completion the construction of the Improvements as provided in the Scope of Development. The Developer shall begin and complete all construction and development within the times specified in the Schedule of Performance with such reasonable extensions of said dates as may be granted by the Agency.

c. During periods of construction, the Developer shall submit to the Agency a written report of the progress of construction when and as reasonably requested by the Agency, but not more frequently than once every quarter. The report shall be in such form and detail as may be reasonably required by the Agency and shall include a reasonable number of construction photographs (if requested) taken since the last report by the Developer.

Section 410 Indemnification and Insurance

a. Developer's Indemnity. To the maximum extent permitted by law, Developer agrees to, and shall defend, indemnify and hold harmless Agency, the City of San Diego and their respective officers, employees, contractors and agents from and against all claims, liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person, or the property of any person, resulting or arising from or in any way connected with this Agreement. Provided, however, that Developer shall not be responsible for, and such indemnity shall not apply to, claims, liability, loss, damage, costs or expenses that result from the sole negligence or willful misconduct of the Agency, City or their respective officers, employees, contractors or agents. These indemnification provisions are not intended to and do not limit, negate, modify, nullify or change the non-recourse provisions of this Agreement or any other Agency Loan Document.

The foregoing indemnity shall continue to remain in effect after the Completion.

b. Insurance Policies.

(1) At all times prior to Completion, Developer shall maintain in effect and deliver to Agency duplicate originals or appropriate certificates of the following insurance policies:

i. All Risk: Developer shall maintain or cause to be maintained a policy or policies of insurance against loss or damage to the Property and the Improvements thereon and all property of an insurable nature located upon

the Property, resulting from fire, lightning, vandalism, malicious mischief, riot and civil commotion, and such other perils ordinarily included in special causes of loss property coverage form policies. Such insurance shall be maintained in an amount not less than one hundred percent of the full insurable value of the Improvements on the Property, as defined below.

- ii. Liability Insurance: Developer shall maintain or cause to be maintained public liability insurance, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever on or about the Property and the business of the Developer on the Property, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Developer or its tenants, or any person acting for Developer, or under its respective control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person occurring on or about the Property, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of Developer or its tenants, or any person acting for Developer, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect Agency against incurring any legal cost in defending claims for alleged loss. Such personal injury and property damage insurance shall be maintained in full force and effect during the Term in the following amounts: commercial general liability in a general aggregate amount of not less than \$2 million, and not less than \$2 million General Aggregate, \$2 million Products and Completed Operations Aggregate, and \$2 million Each Occurrence. Developer shall deliver to Agency a Certificate of Insurance evidencing such insurance coverage prior to the occurrence of the Initial Financing Event. Developer agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Developer may be held responsible for the indemnification of Agency or the payment of damages to persons or property resulting from Developer's activities, activities of its tenants or the activities of any other person or persons for which Developer is otherwise responsible.
- iii. Automobile Insurance: If Developer has or uses automobiles, then Developer shall maintain or cause to be maintained automobile insurance, maintained in full force and effect during the Term in an amount of not less than \$2 million per accident.
- iv. Workers' Compensation Insurance: If Developer has employees, then Developer shall maintain or cause to be maintained workers' compensation insurance issued by a responsible carrier authorized under the laws of the State of California to insure employers against liability for compensation under the workers' compensation laws now in force in California, or any laws hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons

employed by Developer in connection with the Property and shall cover liability within statutory limits for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of any person incurring or suffering injury or death in connection with the Property or the operation thereof by Developer. Notwithstanding the foregoing, Developer may, in compliance with the laws of the State of California and in lieu of maintaining such insurance, self-insure for workers' compensation in which event Lessee shall deliver to Agency evidence that such self-insurance has been approved by the appropriate State authorities.

- (2) All policies or certificates of insurance shall provide that such policies shall not be canceled, reduced in coverage or limited in any manner without at least ten days prior written notice to Agency. All fire and liability insurance policies (not automobile and workers' compensation) may name the Agency and Developer as insureds, additional insureds, or loss payable parties as their interests may appear.
- (3) The term "full insurable value" as used in this paragraph b. shall mean the cost (excluding the cost of excavation, foundation and footings below the lowest floor and without deduction for depreciation) of providing similar Improvements of equal size and providing the same habitability as the Improvements immediately before such casualty or other loss, but using readily-available contemporary components, including the cost of construction, architectural and engineering fees, and inspection and supervision. To ascertain the amount of coverage required, Developer shall cause the full insurable value to be determined from time to time by appraisal by the insurer, by agreement between Developer and Agency or by an appraiser mutually acceptable to Agency and Developer, not less often than once every three years.
- (4) All insurance provided under this paragraph b. shall name 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."

Developer agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance. Developer agrees to submit binders or certificates evidencing such insurance to Agency prior to the Initial Financing Event. Within thirty days, if practicable, but in any event prior to expiration of any such policy, copies of renewal policies, or certificates evidencing the existence thereof, shall be submitted to Agency. All insurance herein provided for under this paragraph b. shall be provided by insurers licensed to do business in the State of California and rated A-VII or better. If there are no admitted insurers willing to provide coverage in the State of California, then the insurance may be provided for by a non-admitted insurer provided they are:

1) authorized to do business in the State of California; 2) on the most recent LESLI list established by the DOI; and 3) have an A.M. BEST rating of no less than A - V II.

- (5) If Developer fails or refuses to procure or maintain insurance as required by this Agreement, Agency shall have the right, at Agency's election, and upon ten days prior notice to Developer, to procure and maintain such insurance. The premiums paid by Agency shall be treated as a loan, due from Developer, to be paid on the first day of the month following the date on which the premiums were paid. Agency shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

Section 411 Nondiscrimination and Equal Opportunity

- a. Compliance with the City's Equal Opportunity Contracting.

The Developer and its Contractor, Subcontractor, Consultant, Subconsultant, Vendor/Supplier shall comply with the City's Equal Opportunity Contracting Developer Requirements which is attached hereto as Attachment No. 16.

- b. Non-Discrimination Ordinance.

The Developer shall not discriminate on the basis on race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Contractor and Consultants, to participate in subcontracting/subconsulting opportunities. The Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between Contractor, Consultant, Subcontractor, Subconsultants, Vendors and Suppliers.

- c. Compliance Investigations.

Upon the City's request, Developer agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all contractors, subcontractors, subconsultants, vendors, and suppliers that Developer has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Developer for each subcontract or supply contract.

Developer further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's *Nondiscrimination in Contracting Ordinance*, Municipal Code Sections 22.3501 through 22.3517. Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Developer up to and including contract termination, debarment and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance*. Developer further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Ordinance*.

d. Prior to commencing construction of the Project and in accordance with the Schedule of Performance, Developer shall contact to the City's Equal Opportunity Contracting Program to determine compliance with all applicable rules and regulations.

Section 412 Local, State and Federal Laws

The Developer shall carry out the construction of the Improvements in conformity with all applicable laws, including all applicable federal and state labor and wage laws and standards.

Section 413 Permits

Before commencement of construction or development of any buildings, structures or other work of improvement upon any portion of the Property, the Developer shall, at its own expense, secure or cause to be secured, any and all permits which may be required by the City or any other governmental agency affected by such construction, development or work.

Section 414 Rights of Access

Representatives of the Agency and the City shall have the reasonable right of access to the Property, upon twenty-four hours' written notice to Developer (except in the case of an emergency, in which case Agency shall provide such notice as may be practical under the circumstances), without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. Such representatives of the Agency or the City shall be those who are so identified in writing by the Executive Director of the Agency.

Section 415 Disclaimer of Responsibility by Agency

The Agency neither undertakes nor assumes, nor will have any responsibility or duty to Developer or to any third party to review, inspect, supervise, pass judgment upon, or inform Developer or any third party of any matter in connection with the development or construction of the Improvements, whether regarding the quality, adequacy or suitability of the plans, any labor, service, equipment or material furnished to the Property, any person furnishing the same, or otherwise. Developer and all third parties shall rely upon its, or their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to Developer, or to any third party by the Agency in connection with such matter is for the public purpose of redeveloping the Property, and neither Developer (except for the purposes set forth in this Agreement) nor any third party is entitled to rely thereon. The Agency shall not be responsible for any of the work of construction, improvement or development of the Property.

Section 416 Taxes, Assessments, Encumbrances and Liens

Developer shall pay, when due, all real estate taxes and assessments assessed and levied on or against the Property. Prior to Completion, Developer shall not place, or allow to be placed, on title to the Property or any portion thereof, any mortgage, trust deed, encumbrance or lien not authorized by this Agreement. In addition, Developer shall remove, or shall have removed, any levy or attachment made on title to the Property (or any portion thereof), or shall assure the

satisfaction thereof within a reasonable time, but in any event prior to a sale thereunder. Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amount of any tax assessment, encumbrance or lien, nor to limit the remedies available to the Developer in respect thereto. The covenants of the Developer set forth in this Section 516 shall remain in effect only until the issuance of a Release of Construction Covenants.

Section 417 Prohibition against Transfer

a. Prior to Completion, Developer shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any right herein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property or the Improvements thereon, without prior written approval of the Agency. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property, nor shall it prohibit Permitted Transfers.

b. Except as permitted by paragraph a., in the event Developer does assign this Agreement or any of the rights herein, or does sell, transfer, convey or assign the Property or the buildings or structures thereon prior to Completion without the approval of the Agency, subject to the notice and cure provisions of Section 701, the Agency shall have the right to terminate this Agreement.

c. In the absence of a specific written agreement by the Agency, and except as otherwise provided in this Agreement, no such sale, transfer, conveyance or assignment of this Agreement or the Property (or any portion thereof), or approval by the Agency of any such sale, transfer, conveyance or assignment, shall be deemed to relieve Developer or any other party from any obligations under this Agreement.

Section 418 No Encumbrances except Permitted Mortgages

a. Notwithstanding Section 417, upon and after the Initial Financing Event, Developer shall have the right to encumber the Property with Permitted Mortgages, but only for the purpose of securing loans of funds to be used for financing the construction of the Improvements, and other expenditures necessary and appropriate to develop the Property under this Agreement [Permitted Financing Purposes]. Prior to Completion: (1) Developer shall not have any authority to encumber the Property for any purpose other than Permitted Financing Purposes; (2) the Developer shall notify the Agency in advance of any proposed financing; and (3) the Developer shall not enter into any Mortgage without the prior written approval of the Agency, which approval the Agency shall grant if it is a Permitted Mortgage and shall not be unreasonably withheld, conditioned or delayed. A Permitted Mortgagee of a Permitted Mortgage Loan approved by the Agency pursuant to this Section 417 shall not be bound by any amendment, implementation agreement or modification to this Agreement subsequent to its approval without such lender giving its prior written consent.

b. In any event, the Developer shall promptly notify the Agency of any mortgage created or attached to the Property whether by voluntary act of the Developer or otherwise.

c. The words "mortgage" and "deed of trust" as used herein include all other appropriate modes of financing real estate acquisition, construction and land development.

d. Agency agrees to make reasonable modifications to Sections 417 through 423 that may be requested by a Permitted Mortgagee or the Tax Credit Equity Investor, provided such modification does not adversely affect the receipt of any material benefit by Agency hereunder. Upon the reasonable request of a Permitted Mortgagee, Agency shall execute from time-to-time such estoppel certificates and subordination agreements to the extent they are consistent with the terms of this Agreement.

e. The requirements of this Section 418 shall not apply following Completion.

Section 419 Permitted Mortgagee Not Obligated to Construct Improvements

A Mortgagee shall not be obligated by the provisions of this Agreement to construct or complete the Improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed or construed to permit, or authorize any such lender to devote the Property to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

Section 420 Notice of Default to Mortgagees; Right of Mortgagee to Cure Defaults

Whenever the Agency shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in completion of construction of the Improvements, the Agency shall at the same time deliver to each Mortgagee of record and to the Tax Credit Investor, a copy of such notice or demand. Each such Mortgagee and Tax Credit Investor shall (insofar as the rights of the Agency are concerned) have the right at its option within ninety days after the receipt of the notice, to cure or remedy, or commence to cure or remedy, any such default and to add the cost thereof to the security interest debt and the lien of its security interest, if any. If such default shall be a default which can only be remedied or cured by such lender upon obtaining possession of the Property, such Mortgagee shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within ninety days after obtaining possession; provided that in the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced within such ninety day period, such Mortgagee shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity; and provided further that such Mortgagee shall not be required to remedy or cure any non-curable default of the Developer. Any Mortgagee who forecloses on its Permitted Mortgage, or is assigned or otherwise succeeds to Developer's rights under this Agreement, shall have the right to undertake or continue the construction or completion of the Improvements upon execution of a written agreement with the Agency by which such Mortgagee expressly assumes the Developer's rights and obligations under this Agreement, approval of which agreement shall not be unreasonably withheld by Agency. Any such Mortgagee properly completing such improvements shall be entitled, upon written request made to the Agency, to a Release of Construction Covenants from the Agency.

Section 421 Failure of Mortgagee to Complete Improvements

In any case where, six months after default by the Developer, 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 amount of the unpaid debt, plus any accrued and unpaid interest and other charges permitted by the mortgage instrument approved by the Agency. If the ownership of the Property (or portion thereof) has vested in the holder, the Agency, if it so desires, shall be entitled to a conveyance of the Property from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following:

- (1) The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings).
- (2) All expenses with respect to foreclosure.
- (3) The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent ownership or management of the Property (or portion thereof), such as insurance premiums and real estate taxes.
- (4) The cost of any improvements made by such holder.
- (5) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency.

Section 422 Right of the Agency to Cure Defaults

In the event of a default or breach by the Developer of a Permitted Mortgage prior to Completion, and the Mortgagee has not commenced to complete the development, the Agency may cure the default prior to completion of any foreclosure. In such event, the Agency shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Property to the extent of such costs and disbursements. Any such lien shall be subordinate and subject to the Senior Loans.

Section 423 Right of the Agency to Satisfy Other Liens on the Property

Prior to completion and after the Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on its interest in the Property, the Agency shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provisions for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Property to forfeiture or sale. In such event, the Agency shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the Agency in satisfying any such liens or encumbrances. The

Agency shall also be entitled to a lien upon the Property to the extent of such costs and expenses. Any such lien shall be subordinate and subject to the Senior Loans.

Section 424 Release of Construction Covenants

a. Promptly after Completion of the construction of the Improvements as required by this Agreement, Agency shall deliver to Developer a Release of Construction Covenants, upon written request therefor by Developer. Agency shall not unreasonably withhold any such Release of Construction Covenants. Such Release of Construction Covenants shall be, and shall so state, conclusive determination of satisfactory completion of the construction required by this Agreement.

b. The Release of Construction Covenants shall be in such form as to permit it to be recorded in the Office of the Recorder of San Diego County.

c. If Agency fails to deliver the Release of Construction Covenants within ten days after written request from Developer, Agency shall provide Developer with a written statement of its reasons [Statement of Reasons] within that ten day period. The statement shall also set forth the steps Developer must take to obtain the Release of Construction Covenants. If the reasons are confined to the immediate unavailability of specific items or materials for landscaping, or to so-called "punch list" items identified by Agency, Agency will issue the Release of Construction Covenants upon the posting of a bond by Developer with Agency in an amount representing Agency's estimate of the cost to complete the work.

d. Such Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any Mortgagee, or any insurer of a mortgage securing money loaned to finance the Improvements, nor any part thereof. Such Release of Construction Covenants is not notice of completion as referred to in the California Civil Code section 3093.

PART 5. USE OF THE PROPERTY

Section 501 Uses

a. Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that Developer, such successors and such assignees shall use the Property only for the uses specified in the Redevelopment Plan, this Agreement (including the Scope of Development), and the Grant Deed. No change in the use of the Property shall be permitted without the prior written approval of Agency.

b. Without limiting the generality of the foregoing, Developer shall use the Property for the development and operation of a residential housing development consisting of 85 apartments, 84 of which shall be rented at affordable rents to exclusively to Very Low and Low Income households, plus one manager's unit, and an underground parking facility, all as described in the Scope of Development, in accordance with the requirements of the Grant Deed.

Section 502 Maintenance of the Property

Developer shall maintain the Property in accordance with the requirements of the Grant Deed.

Section 503 Obligation to Refrain from Discrimination

Developer covenants and agrees for itself, its successors and its assigns in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property.

Section 504 Form of Nondiscrimination and Non-segregation Clauses

Developer shall refrain from restricting the rental, sale or lease of the property on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry of any person. All such deeds, leases or contracts entered into after the date on which this Agreement is executed by the Agency shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses.

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

b. In leases: "The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry in the leasing, subleasing, transferring, use or enjoyment of the land herein leased nor shall the lease itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants or vendees in the land herein leased."

c. In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry in the sale, lease sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee itself or any person claiming under or

through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.”

Section 505 Local Hiring and Contracting

Developer and its contractor(s) shall make reasonable efforts to ensure that qualified, small and minority owned businesses, women business enterprises, labor surplus area businesses, and individuals or firms located in or owned in substantial part by persons residing in the area of the Barrio Logan Redevelopment Project Area are used when possible. Such efforts shall include but not be limited to:

- (1) Including such firms, when qualified, on solicitation mailing lists;
- (2) Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation of such firms;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
- (5) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce, and the strategies outlined below, when appropriate;
- (6) Including in contracts a clause requiring contractors, to the greatest extent feasible, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which are located in, or owned in substantial part by persons residing in the project area;
- (7) Requiring contracts, when subcontracting is anticipated, to take the positive steps listed in 1-6 above;
- (8) Implementing strategies to promote local hiring, including soliciting at:
 - Local job fairs
 - Youth apprenticeship program
 - Place ads in local and DBE newspapers/newsletters
 - Network with local and supportive organizations, including but not limited to CHANGE, Black Contractors Association, Latino Builders Association, San Diego Community College District, San Diego

Workforce Partnership, Labor Council, Union of Pan-Asian Communities (UPAC).

- Metropolitan Area Advisory Committee (MAAC), Chicano.
- (9) Setting goals for local hiring percentages and require developers/prime contractors to report regularly on their status of pursuing the goals.
- (10) Implementing strategies to promote use of local subcontractors and suppliers, including:
- Maintaining and using an updated list of local contractors and suppliers
 - Doing outreach to local companies by direct mail, flyers and/or personal contacts
 - Placing ads in local and DBE newspapers and newsletters
 - Networking with local and supportive organizations, including but not limited to Business Improvement Districts, BID Council, City Office of Small Business, Metropolitan Area Advisory Council (MAAC), Chicano Federation
 - Setting goals for local contracting/supplies percentages and requiring contractors to report regularly on their status of pursuing these goals

Section 506 Effect and Duration of Covenants

The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of Agency, its successors and assigns, and the City. Such covenants shall be as contained in the Grant Deed and shall remain in effect for the periods specified therein.

PART 6. DEFAULTS AND REMEDIES

Section 601 Defaults - General

a. Subject to the extensions of time set forth in Section 702, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who fails or delays must commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

b. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by either party in

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

c. If a monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default written notice of such default. The party in default shall have a period of fifteen days after such notice is received or deemed received within which to cure the default prior to exercise of remedies by the injured party.

d. If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default notice of such default. If the default is reasonably capable of being cured within thirty days after such notice is received or deemed received, the party in default shall have such period to effect a cure prior to exercise of remedies by the injured party. If the default is such that it is not reasonably capable of being cured within thirty days, and the party in default (1) initiates corrective action within said period, and (2) diligently, continually, and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the injured party. In no event shall the injured party be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default.

e. If Developer fails to take corrective action or cure a default within a reasonable time, the Agency shall give Developer and, as provided in paragraph (f), below, the Tax Credit Equity Investor, notice thereof, whereupon the Tax Credit Equity Investor may remove and replace the general partner or managing member with a substitute general partner or managing member, in accordance with the terms of the Developer's Operating Agreement, who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. The Agency agrees to accept cures tendered by the Tax Credit Equity Investor within the cure periods provided in this Agreement or within the time periods provided in the California Civil Code section 2924c, whichever is longer. Additionally, in the event the Tax Credit Equity Investor is precluded from curing a non-monetary default due to an inability to remove the general partner or managing member as a result of a bankruptcy, injunction, or similar proceeding by or against Developer or its general partner or managing member, the Agency agrees to forbear from completing a foreclosure (judicial or non-judicial) during the period during which the Tax Credit Equity Investor of Developer is so precluded from acting, not to exceed ninety days, provided such Tax Credit Equity Investor is otherwise in compliance with the foregoing provisions.

f. After Developer gives written notice to Agency that the Tax Credit Equity Investor has been admitted to Developer's limited liability company or limited partnership, Agency shall send to the Tax Credit Equity Investor a copy of all notices of default and all other notices that Agency sends to Developer, at the address for the Tax Credit Equity Investor as provided by written notice to Agency by Developer.

Section 602 Cure Rights of Limited Partner: Notice to Limited Partner.

a. Developer's limited partner(s) (collectively, "Limited Partner") shall have the right but not the obligation to cure any Event of Default of Developer under the Agreement and any other loan documents, and Agency agrees to accept cure tendered by Limited Partner on behalf of Developer within sixty (60) days after notice of Event of Default. In addition to any notice required to be given by Agency to Developer, Agency shall give concurrent written notice of any Event of Default under the Loan Documents to Limited Partner as follows at the address set forth below. Such notice shall not constitute notice to the Developer. The notice shall specify: (i) the nature of the event or deficiency giving rise to the Event of Default, (ii) the action required to cure the event or deficiency, if an action to cure is possible and can be ascertained, and (iii) a date by which such action to cure must be taken, if applicable, which date shall in no event be less than sixty (60) calendar days from the mailing of the notice for monetary defaults or ninety (90) calendar days from the mailing of the notice for non-monetary defaults. If the cure of an Event of Default requires more than the cure period provided in this paragraph, Limited Partner shall be entitled to the same extension rights as provided herein, provided Limited Partner promptly commences to cure the Event of Default and thereafter diligently pursues or prosecutes such cure to completion, or diligently pursues the removal and replacement of the general partner of Developer. In the event Agency fails to provide notice of an Event of Default to Limited Partner as set forth herein, Agency's failure to provide such notice to Limited Partner shall not result in liability to Agency, but Agency shall grant Limited Partner sixty (60) calendar days from receipt of actual notice of a monetary default or ninety (90) days from receipt of actual notice of a non-monetary default to pay any and all sums or perform any and all acts necessary to cure such Events of Default. Notwithstanding the foregoing, in no event shall Limited Partner's right to cure an Event of Default extend beyond five (5) calendar days prior to Agency's foreclosure of its interest in the Real Property.

Notice to Limited Partner shall be addressed to:

Multi-Housing Investments, LLC
320 Golden Shore, Suite 200
Long Beach, California 90802
Attention: Legal Department

Section 603 Institution of Legal Actions

In addition to any other rights or remedies (and except as otherwise provided in this Agreement), either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of San Diego, State of California, in any other appropriate court of that county, or in the United States District Court for the Southern District of California.

Section 604 Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

Section 605 Acceptance of Service of Process

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

b. In the event that any legal action is commenced by the Agency against the Developer, service of process on the Developer shall be made by personal service upon the Developer (or upon a general partner, managing member or officer of the Developer) and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

Section 606 Rights and Remedies Are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 607 Damages

Subject to the notice and cure provisions of Section 601, if either party defaults with regard to any of the provisions of this Agreement, the non-defaulting party shall serve written notice of such default upon the defaulting party. If the default is not cured within the time provided in Section 601, the defaulting party shall be liable to the non-defaulting party for any damages caused by such default, and the non-defaulting party may thereafter (but not before) commence an action for damages against the defaulting party with respect to such default.

Section 608 Specific Performance

Subject to the notice and cure provisions of Section 601, if either party defaults with regard to any of the provisions of this Agreement, the non-defaulting party shall serve written notice of such default upon the defaulting party. If the default is not cured within the time provided in Section 601, the non-defaulting party, at its option, may thereafter (but not before) commence an action for specific performance of the terms of this Agreement pertaining to such default.

Section 609 Termination by Either Party

Prior to the Initial Financing Event, either party shall have the right to terminate this Agreement, by providing written notice to the other party, in the event of a failure of any condition precedent to the occurrence of the Initial Financing Event as set forth in the Method of Financing, provided that such condition is for the benefit of and such failure is outside the control of the party seeking to terminate this Agreement, whereupon neither the Agency nor Developer shall have any further rights against or liability to the other under this Agreement.

Section 610 Termination by the Developer

a. Prior to the Initial Financing Event, subject to the notice and cure provisions of Section 601, Developer shall have the right to terminate this Agreement, by providing written notice to the Agency, in the event of a default by Agency pursuant to this Agreement.

b. The Agency, despite all conditions precedent thereto having occurred, fails to tender conveyance of title to the Agency Parcels, or possession thereof, to the Developer in the manner and condition, and within the time periods provided in this Agreement; or

c. The Agency, after a hearing as required by law, fails to adopt a resolution of necessity provided for in Chapter 4, Article 2 of the California Eminent Domain Law with respect to any property within the Parcels to be acquired by the Agency hereunder.

Section 611 Termination by Agency

a. Subject to the notice and cure provisions of Section 601, Agency shall have the right, prior to the Financing Event, to terminate this Agreement, by providing written notice to Developer, in the event of a default by Developer or failure of any condition precedent to the occurrence of the Financing Event which is in the control of Developer, including but not limited to the following:

- (1) Developer fails to pay the Purchase Price as provided for in the Method of Financing.
- (2) Developer fails to apply timely to CTCAC for Low Income Housing Tax Credits, Housing Commission Funding and AHP Funding within the time established in the Schedule of Performance; or
- (3) Developer, having timely applied for Low Income Housing Tax Credits by the time established therefor in the Schedule of Performance is not approved by CTCAC, and fails to re-apply timely to CTCAC for Low Income Housing Tax Credits within the time established in the Schedule of Performance; or
- (4) Developer, after having applied for the July 2006 round of LIHTC, March 2007 and July 2007 round of LIHTC within the time established in the Schedule of Performance is not approved; or
- (5) Developer fails to submit to the Agency the evidence of financing commitments or fails to satisfy any other condition precedent to the occurrence of the Initial Financing Event as provided in the Method of Financing within the time established in the Schedule of Performance; or
- (6) Developer (or any successor in interest) assigns or attempts to assign the Agreement or any right therein, or transfers the Property (or any portion thereof or interest therein), except as permitted by this Agreement; or

- (7) There is substantial change in the ownership of the Developer, or with respect to the identity of the parties in control of Developer, or the degree thereof contrary to the provisions of Section 107 hereof, provided that for purposes of this provision, changes in board membership from time-to-time shall not constitute a change in the ownership of Developer; or
- (8) Developer fails to submit any of the plans, drawings and related documents required by this Agreement by the respective dates provided in this Agreement.
- (9) The Agency, after hearing as required by law, fails to adopt a resolution of necessity provided for in Chapter 4, Article 2 of the California Eminent Domain Law with respect to any property within the Agency Parcels to be acquired by the Agency hereunder; and

b. After the Initial Financing Event, but before Completion, Agency shall have the additional right to terminate this Agreement in the event any of the following defaults shall occur:

- (1) Developer fails to commence construction of the Improvements as required by this Agreement and such breach is not cured within the time provided in Section 601 of this Agreement, provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled pursuant to Section 702 hereof; or
- (2) Developer abandons or substantially suspends construction of the improvements and such breach is not cured within the time provided in Section 601 of this Agreement, provided the Developer has not obtained an extension or postponement to which the Developer may be entitled to pursuant to Section 702 hereof; or
- (3) Developer assigns or attempts to assign this Agreement, or any rights herein, or transfer, or suffer any involuntary transfer of the Property, or any part thereof, in violation of this Agreement, and such breach is not cured within the time provided in Section 601 of this Agreement; or
- (4) Developer otherwise materially breaches this Agreement, and such breach is not cured within the time provided in Section 601 of this Agreement.

Section 612 Right of Reentry

The Agency shall have the right, at its option, to reenter and take possession the Property with all Improvements thereon, and to terminate and revest in the Agency the estate theretofore conveyed to the Developer, if after conveyance of title or possession and prior to the recordation of the Certificate of Completion, the Developer (or its successors in interest) shall:

1. Fail to commence construction of the Improvements as required by this Agreement for a period of three (3) months after written notice to proceed from the Agency

(referring to this Section 611), provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled pursuant to Section 702 hereof; or

2. Abandon or substantially suspend construction of the Improvements for a period of three (3) months after written notice of such abandonment or suspension from the Agency (referring to this Section 611), provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled to pursuant to Section 702 hereof; or

3. Assign or attempt to assign this Agreement, or any rights herein, or transfer, or suffer any involuntary transfer of the Property, or any part thereof, in violation of this Agreement, and such violation shall not be cured within thirty (30) days after the date of receipt of written notice thereof (referring to this Section 611) by the Agency to the Developer.

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

1. Any mortgage, deed of trust, or other security interests permitted by this Agreement with respect to such Development Parcel;

2. Any rights or interests provided in this Agreement for the protection of the holders of such mortgages, deeds of trust, or other security interests;

The Grant Deed shall contain appropriate references and provisions to give effect to the Agency's right, as set forth in this Section 611 under specified circumstances prior to the recordation of the Certificate of Completion, to reenter and take possession of the Property, with all improvements thereon, and to terminate and revest in the Agency the estate conveyed to the Developer.

Upon the revesting in the Agency of title to the Property as provided in this Section 611, the Agency shall, pursuant to its responsibilities under state law, use its diligent and good faith efforts to resell such Property as soon and in such manner as the Agency shall reasonably find feasible and consistent with the objectives of such law and of the Redevelopment Plan to a qualified and responsible party or parties (as determined by the Agency), who will assume the obligation of making or completing the improvements, or such other improvements in their stead, as shall be reasonably satisfactory to the Agency and in accordance with the uses specified for the Property in the Redevelopment Plan. Upon such resale of the Property the proceeds thereof shall be applied:

1. First, to reimburse the Agency on its own behalf or on behalf of the City of all costs and expenses incurred by the Agency, including but not limited to salaries to personnel engaged in such action (to the extent of their time spent on such action), in connection with the recapture, management, and resale of the Property; all taxes, assessments, and water and sewer charges with respect to the Property; any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Property; and any amounts otherwise owing to the Agency by the Developer and its successor or transferee; and

2. Second, to reimburse the Developer, its successor or transferee, up to the amount equal to (1) the sum of the Purchase Price paid to the Agency by the Developer for the Property.

Any balance remaining after such reimbursements shall be the property of the Agency.

To the extent that the right established in this Section 612 involves a forfeiture, it must be strictly interpreted against the Agency, the party for whose benefit it is created. The rights established in this Section 612 are to be interpreted in light of the fact that the Agency will convey the Property to the Developer for development and not for speculation in undeveloped land.

PART 7. GENERAL PROVISIONS

Section 701 Notices

Formal notices, demands and communications between Agency and Developer shall be deemed sufficiently given if dispatched by first class mail, registered or certified mail, postage prepaid, return receipt requested, or by electronic facsimile transmission followed by delivery of a "hard" copy, or by personal delivery (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), to the addresses of Agency and Developer as set forth in Sections 105 and 106 hereof. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail. Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission. Any notice 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. Any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

Section 702 Enforced Delay: Extension of Time of Performance

a. Performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, 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 other party, acts or failure to act of the City of San Diego or any other public or governmental agency or entity (except that acts or failure to act of Agency shall not excuse performance of Agency), or any causes beyond the control or without the fault of the party claiming an extension of time to perform.

b. An extension of time for any such cause [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 the party claiming such extension is sent to the other party within thirty 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 party claiming

such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date and the event commenced, and the estimated delay resulting therefrom. Any party claiming a Force Majeure Delay shall deliver such written notice within thirty 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 the Developer.

Section 703 Conflict of Interest

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

b. No officer, employee, agent, official, consultant or contractor of Developer may purchase, rent or otherwise occupy a housing unit on the Property (other than a resident manager in the course of his or her employment). Prior to Closing, Developer shall prepare and deliver to the Agency for review and approval a marketing and advertising plan [Marketing Plan]. The Marketing Plan shall comply with the Agency's affirmative marketing procedures and requirements and shall otherwise be satisfactory to the Agency.

c. Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

Section 704 Non-liability of Agency Officials and Employees

No member, official, agent, legal counsel or employee of Agency shall be personally liable to Developer, or any successor in interest in the event of any default or breach by Agency or for any amount which may become due to Developer or successor or on any obligation under the terms of this Agreement.

Section 705 Inspection of Books and Records

Prior to Completion, the Agency shall have the right at all reasonable times to inspect the books and records of the Developer pertaining to the Property as pertinent to the purposes of this Agreement. The Developer shall also have the right at all reasonable times to inspect the books and records of the Agency pertaining to the Property as pertinent to the purposes of this Agreement.

Section 706 Approvals

a. Except as otherwise expressly provided in this Agreement, approvals required of Agency, Agency Executive Director or Developer in this Agreement, including the attachments hereto, shall not be unreasonably withheld, conditioned, or delayed. All approvals shall be in writing. Failure by either party to approve a matter within the time provided for approval of the matter shall not be deemed a disapproval, and failure by either party to disapprove a matter within the time provided for approval of the matter shall not be deemed an approval.

b. Except as otherwise provided for in this Agreement, approvals required of the Agency shall be deemed granted by the passing of a resolution. Approvals required by the Agency Executive Director shall be made in writing by the Agency Executive Director or designee. Agency agrees to provide notice to Developer of the name of the Executive Director's designee on a timely basis, and to provide updates from time to time. Notwithstanding the foregoing, the Executive Director or designee may, in his or her sole discretion, refer to the governing body of the Agency any item requiring Agency approval.

Section 707 Real Estate Commissions

Neither Developer nor Agency shall be liable for any real estate commissions or brokerage fees which may arise from this Agreement.

Section 708 Construction and Interpretation of Agreement

a. The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The parties hereto acknowledge and agree that this Agreement has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in, or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

b. 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. It is the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement an enforceable clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

c. The captions of the articles, sections, and subsections herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as part of this instrument.

d. References in this instrument to this "Agreement" mean, refer to and include this instrument as well as any riders, exhibits, addenda and attachments hereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in this instrument. Any references to any covenant, condition, obligation, and/or undertaking "herein," "hereunder," or "pursuant hereto" (or language of like import) shall mean, refer to, and include the covenants, obligations, and undertakings existing pursuant to this instrument and any riders, exhibits, addenda, and attachments or other documents affixed to or expressly incorporated by reference in this instrument.

e. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

Section 709 Time of Essence

Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

Section 710 No Partnership

Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, or any other similar relationship between the parties hereto or cause Agency to be responsible in any way for the debts or obligations of Developer or any other person.

Section 711 Compliance with Law

Developer agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the development and use of the Property and the Improvements, as well as operations conducted thereon. The judgment of any court of competent jurisdiction, or the admission of Developer or any lessee or permittee in any action or proceeding against them, or any of them, whether Agency be a party thereto or not, that Developer, lessee or permittee has violated any such ordinance or statute in the development and use of the Property shall be conclusive of that fact as between Agency and Developer.

Section 712 Binding Effect

This Agreement, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

Section 713 No Third Party Beneficiaries

The parties to this Agreement acknowledge and agree that the provisions of this Agreement are for the sole benefit of Agency and Developer, and not for the benefit, directly or indirectly, of any other person or entity, except as otherwise expressly provided herein.

Section 714 Authority to Sign

Developer hereby represents that the persons executing this Agreement on behalf of Developer have full authority to do so and to bind Developer to perform pursuant to the terms and conditions of this Agreement.

Section 715 Incorporation by Reference

Each of the attachments and exhibits referenced in this Agreement and attached hereto is incorporated herein by this reference.

Section 716 Counterparts

This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

PART 8 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

a. This Agreement is executed in five duplicate originals, each of which is deemed to be an original. This Agreement includes 42 pages and 17 attachments, which constitutes the entire understanding and agreement of the parties.

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

c. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of Agency or Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of Agency and Developer.

PART 9 TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY

This Agreement, when executed by Developer and delivered to Agency, must be authorized, executed and delivered by Agency within 30 days after date of signature by Developer or this Agreement may be terminated by Developer upon written notice to Agency. The effective date of this Agreement shall be the date when this Agreement has been executed by Agency.

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

**REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO**

Dated: _____

By: _____

James T. Waring
Assistant Executive Director

**LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,**

Dated: 10-13-06

By: 

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels
President

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre

Agency General Counsel

By: _____

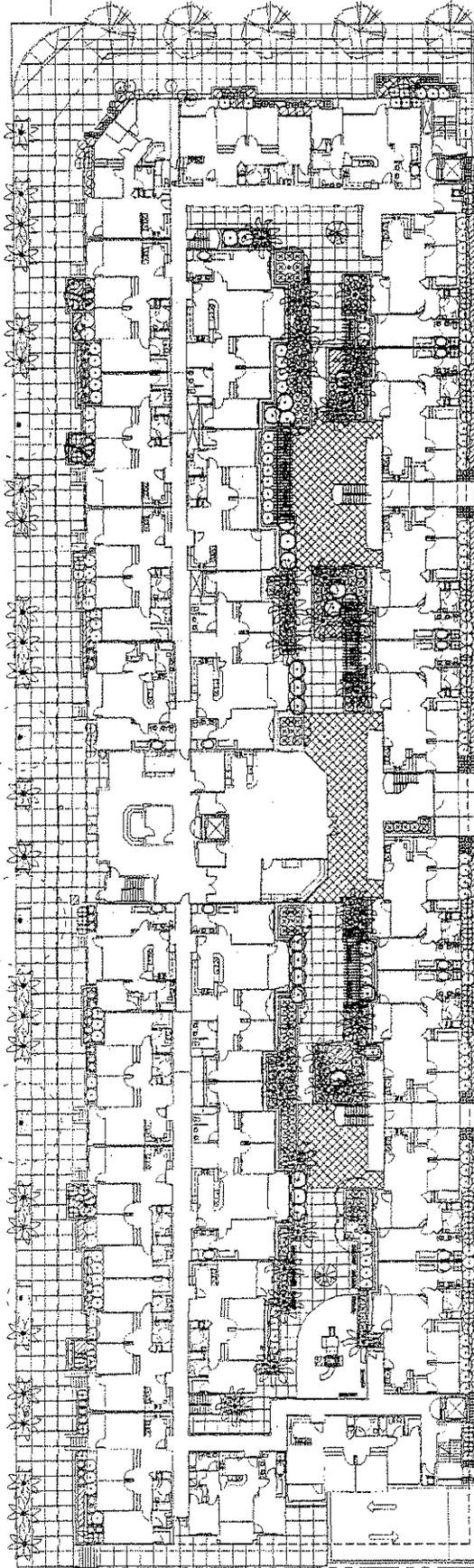
Carol A. Leone

Deputy General Counsel

Lucentra

Family Apartments

LOGAN AVENUE



BEARDSLEY STREET

ALLEY

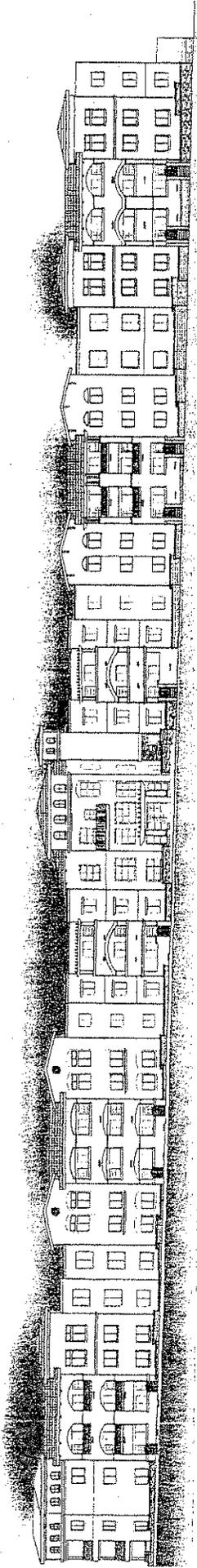


Site Plan

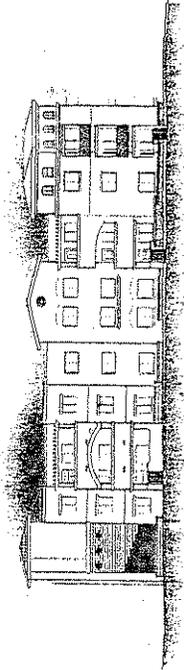
Maple Dell + McClelland
Architects, LLP

Maple Dell

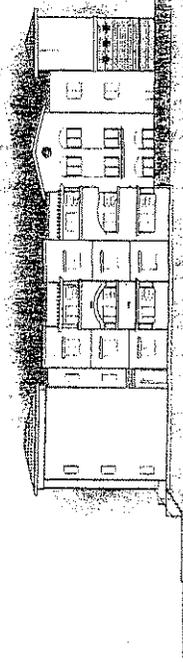
Family Apartments



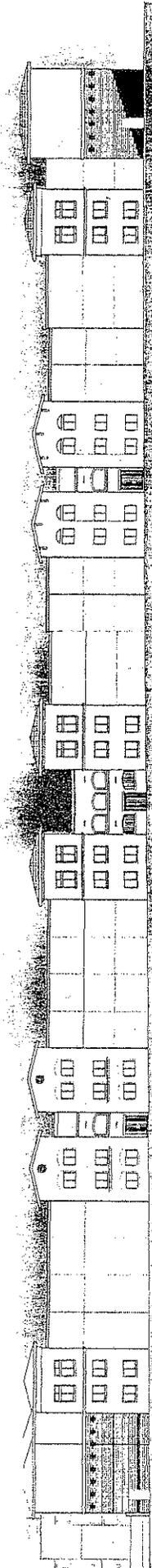
NORTH ELEVATION (LOGAN AVE.)



EAST ELEVATION



WEST ELEVATION



SOUTH ELEVATION (ALLEY)

Building Elevations

Maple Dell + McClelland
Architects, LLP

La Entrada Legal Description

ADDRESS	ASSESOR PARCEL NUMBER	LEGAL DESCRIPTION
1783 - 1795 Logan Ave	538-050-15, 16, 17	Lot 25 through 29, in Block 139 of the Subdivision of Pueblo Lot 1157 (commonly known as Mannasse and Schiller's Addition), in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1771 - 1773 Logan Ave	538-050-18	Lots 30 and 31 in Block 139 of Subdivision of Pueblo Lot 1157, commonly known as Mannasse and Schiller's addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1765 Logan Ave	538-050-19	Lot 32, Block 139 of Subdivision of Pueblo Lot 1157, (commonly known as Mannasse and Schiller's Addition), in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1761 - 1763 Logan Ave	538-050-20	Lot 33 and the East Half of Lot 34, Block 139, Mannasse and Schiller's Subdivision of Pueblo Lot 1157, in the City of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1757 - 1759 Logan Ave	538-050-21	The West Half of Lot 34 and all of Lot 35 in Block 139 of Mannasse and Schiller's Subdivision of Pueblo Lot 1157, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1749 Logan Ave	538-050-22	Lot 36 in Block 139 of Mannasse and Schiller's Subdivision of Pueblo Lot 1157, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1747 Logan Ave	538-050-23	Lot 37 in Block 139 of Mannasse and Schillers Addition, in the County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.

Attachment No. 2

1743 Logan Ave	538-050-24	Lot 38 in Block 139 of Mannasse and Schillers Addition, in the County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1737 Logan Avenue	538-050-31	Lots 39 and 40, Block 139 of the Subdivision of Pueblo Lot 1157, Commonly known as Mannasse and Schiller's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1725 Logan Ave	538-050-26	Lots 41 and 42 in Block 139 of Mannasse and Schiller's Subdivision of Pueblo Lot 1157, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.
1721 Logan Ave	538-050-27	Lots 43 and 44 in Block 139 of Mannasse and Schiller's Subdivision of Pueblo Lot 1157, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 209, filed in the Office of the County Recorder of San Diego County, July 11, 1870.

METHOD OF FINANCING

This is the Method of Financing attached to the Disposition and Development Agreement [DDA] between the Redevelopment Agency of the City of San Diego and LA ENTRADA HOUSING INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP [Developer], pertaining to the development of a the low income residential rental apartment project with associated underground and sub-terrain parking garage consisting of 85 residential apartments, 84 of which shall be rented to Very Low Income and Low Income households, plus one manager unit. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

1. **Developer's Purchase Price**

Developer shall pay a Purchase Price for the Property conveyed pursuant to the DDA to the Agency in an amount of \$1.

2. **Total Development Cost.** The parties estimate that the cost of the development of the Property by Developer will be approximately \$37,941,000, to be provided approximately as follows in Section 3 of this Method of Financing.

3. **Sources of Financing.** The parties anticipate that the approximate costs of the development of the Property, including acquisition, and the construction of the improvements thereon [Development Costs] shall be financed with an anticipated combination of loans and Developer's equity, as set forth in the following chart and as described below:

Source of Funds

Construction

Construction Loan	\$ 9,326,000
Predevelopment Loan	\$ 2,044,000
Costs paid at Per Loan Close (deferred)	\$ 1,628,000
Tax Credit Equity	\$13,579,000
Cash Flow from Permanent Operations	\$ 241,000
Predevelopment Loan Paydown	\$(2,044,000)
Agency (NOFA) Residual Receipts Loan	<u>\$13,167,000</u>
TOTAL	\$37,941,000

Permanent

Supportable Debt	\$ 4,635,000
Tax Credit Equity	\$19,398,000
Deferred Developer Fee	\$ 500,000
Cash Flow from Permanent Operations	\$ 241,000
Agency (NOFA) Residual Receipts Loan	<u>\$13,167,000¹</u>
TOTAL	\$37,941,000

¹ Developer to apply for a Federal AHP Loan and San Diego Housing Commission funding. If such funding is received, the Agency NOFA Loan will be reduced by that amount. The Federal AHP Loan and San Diego Housing Commission funding shall be subordinate to the Agency NOFA Loan.

- a. A construction loan to be made by a bank or other lender in the approximate original principal amount of \$9,326,000 to be secured by a first priority deed of trust [Construction Loan], to be repaid upon Completion and rent-up in part by the proceeds of a permanent loan in the approximate original principal amount of \$4,635,000.
- b. A fifty-five year construction/permanent loan from the Agency in the original principal amount of \$13,167,000 [Residual Receipts Loan], to be secured by a deed of trust to be in second priority, subordinate only to the Construction Loan during construction and to the Permanent Loan upon repayment of the Construction Loan the Residual Receipts Loan shall be repaid to the extent of the Agency's Share of the Residual Receipts (as defined in the Residual Receipts Promissory Note), and shall be subject to a principal reduction in the event of "Cost Savings" after the reduction of the deferred developer fee to \$0, or "Additional Proceeds" (defined in the DDA). The Agency's Share from Cost Savings and Additional Proceeds shall be 100 percent. The terms of repayment of the Residual Receipts Loan are set forth in the Residual Receipts Promissory Note attached to the Agreement as Attachment No. 8. The Agency and Developer agree that the Residual Receipts Loan shall be reduced dollar-for-dollar to the extent Developer obtains additional tax credits or to the extent there are Cost Savings such that all Development Costs may be paid with the sources of funds remaining available. The Developer Fee, any deferred portion thereof, and interest on that fee, set at the appropriate federal rate, will be paid in its entirety before residual receipts are distributed to Agency to pay against the Residual Receipts Loan.
- c. Developer shall apply for, in a timely manner in accord with the Schedule of Performance, affordable housing funding administered by the Housing Commission. If such funding is obtained, the Agency Residual Receipts Loan (NOFA) funding will be reduced by that amount.
- d. Developer shall apply for, in a timely manner in accord with the Schedule of Performance, Affordable Housing Program funding provided by the Federal Home Loan Bank. If such funding is obtained, the Agency Residual Receipts Loan (NOFA) funding will be reduced by that amount.
- e. Equity from the Developer [Developer Equity], consisting of the following:
 - (1) Approximately \$13,579,000 to be provided by the Tax Credit Equity Investor and disbursed during the construction period, increasing to \$19,398,000 upon Completion, lease-up and stabilized operation; and
 - (2) Approximately \$500,000 in deferred developer fee.

Developer Equity consists of funds provided by Developer that are not secured by any deed of trust.

- f. Developer shall be responsible for providing all funds which may be needed to pay for cost overruns and contingencies not otherwise funded by Construction Financing.

4. **Project Budget.** The parties anticipate that all Development Costs shall be as set forth in the Project Budget attached to the DDA as Attachment No. 7 [Project Budget], incorporated herein by this reference. The Project Budget shall be subject to change from time-to-time, subject to the prior written approval of material changes by the Agency Executive Director or designee (which approval shall not be unreasonably withheld), upon which approval the Project Budget shall be replaced by the approved revised Project Budget.

5. **Evidence of Financing.** The sum of the sources of funds described in Section 2, above, shall be sufficient at all times to pay all Development Costs as set forth in the most recently approved Project Budget. Within the time provided in the Schedule of Performance, Developer shall submit, for Agency review and approval, evidence of such financing, including copies of all documents required by the Tax Credit Equity Investor relating to the Low Income Housing Tax Credit, all documents required by the construction lender relating to the Construction Loan, all documents required for the any other funding source. The Agency shall not unreasonably withhold its approval. Developer shall provide written certification to the Agency that such financing documents are correct copies of the actual documents to be executed by Developer on or before the Closing Date. To the extent that the sum of the sources of funds described in Section 2, above, is insufficient to pay all Development Costs, Developer shall increase the amount of the Developer's Equity.

6. **Subordination.** The Residual Receipts Loan Documents and the Agreement Affecting Real Property (Including Rental Restrictions) shall be subordinate to the regulatory agreement to be recorded in connection with the Low Income Housing Tax Credits, and the lien of any deed of trust securing the Construction Loan and the Permanent Loan. Prior to the recordation of any such instrument, the Executive Director of the Agency or designee shall execute such instruments as may be necessary to subordinate the Residual Receipts Loan Documents and the Agreement Affecting Real Property to the deed of trust securing such loan, any regulatory agreement recorded in connection with the funding, and the regulatory agreement between Developer and the California Tax Credit Allocation Committee to be recorded in connection with the Low Income Housing Tax Credits. Provided, however, that Agency's agreement to subordinate the Residual Receipts Loan Documents and the Agreement Affecting Real Property to the Construction Loan and the Permanent Loan shall be subject to the lender agreeing to provide written commitments reasonably designed to protect the Agency's investment in the event of default, as provided in California Health and Safety Code Section 33334.14. The Federal AHP loan and San Diego Housing Commission funding, if granted, will be subordinate to the Agency Residual Receipts Loan.

7. **Conditions Precedent to Initial Financing Event.** The Initial Financing Event is conditioned upon each of the following occurring prior to the scheduled Closing Date set forth in the Schedule of Performance:

- a. **Title Insurance Policies.** Title Company to be committed to issue Lender's Title Insurance Policies to the Construction Lender, or other funding source.

- b. Final Working Drawings. Developer to submit and Agency to approve final working drawings.
- c. Project Budget. Developer to deliver to the Agency a final Project Budget or any revisions to the final Project Budget attached to the DDA as Attachment No. 7, demonstrating to the satisfaction of the Agency the availability of sufficient funds to pay all Development Costs..
- d. Construction Contract. Developer to deliver any drafts of the general construction contract between the Developer and a licensed general contractor, including but not limited to a schedule of values, covering all construction required by the DDA 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 fixturization of the Project, demonstrating that construction will be completed within the time provided in the Schedule of Performance. The Developer shall deliver the final construction contract to the Agency in the time required in the Schedule of Performance.
- e. Evidence of Financing. Developer shall have submitted to the Agency all approvals or other evidences of lender commitments described in this Method of Financing, and the Agency Executive Director or designee shall have approved such evidence relating to the Construction Loan, Low Income Housing Tax Credit syndication and other Developer Equity or any other funding sources
- f. Insurance. Developer to submit to the Agency evidence of the Insurance Policies required by the DDA, 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.”
- g. Work Force Report/EO Plan and Report. Developer to prepare and deliver to the Agency its Work Force Report or Equal Opportunity Plan, and Initial Equal Opportunity Report, to the extent required by DDA.
- h. Permits. Developer to deliver a list of all permits required for the construction and use of the Improvements, demonstrating that all variances, entitlements and approvals 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). Subject to the foregoing, permits are not required to be issued until needed for the appropriate stage of development.
- i. Resident Marketing and Selection Plan. Developer to deliver to Agency a Resident Marketing and Selection Plan.

- j. Developer Formation Documents. Developer and Assignee, if applicable, to deliver documentation relating to the corporate, partnership, limited liability or other similar status of each entity, as the case may be (and if Developer or Assignee is a limited partnership, its general partners, and if Developer or Assignee is a limited liability company, its members), including, without limitation and as applicable: limited partnership agreement and any amendments thereto; articles of incorporation; State of California 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 DDA 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.
- k. Closing Cost Estimate. Escrow to deliver an estimated closing statement of costs.
- l. Recording Instructions. Agency counsel to prepare such supplemental instructions for the Escrow Agent as may be needed.
- m. Closing Certificate. If applicable, Agency to submit to Escrow a certificate stating that all conditions precedent to recording of the documents have been satisfied or waived, if such be the case.
- n. Documents. Agency, Developer, and other parties, as appropriate, to execute the following documents:
 - (1) Assignment and Assumption Agreement (to be signed by Developer, and Agency);
 - (2) Grant Deed (to be signed by Developer, and Agency) ;
 - (3) Residual Receipts Promissory Note (to be signed by Developer);
 - (4) Deed of Trust (to be signed by Developer);
 - (5) Assignment of Rents and Leases (to be signed by Developer);
 - (6) Assignment of Agreements (to be signed by Developer and project architect);
 - (7) Environmental Indemnity (to be signed by Developer);
 - (8) UCC-1 Financing Statement (to be signed by Developer);
 - (9) Subordination Agreement (to be signed by Agency, Developer and Construction Lender); and

(10) Disbursement Agreement (to be signed by Agency, Developer, Construction Lender).

o. Annual Monitoring Contract. Developer is required to provide annual funding to pay for and deliver to the Agency a contract between the Developer, the San Diego Housing Commission and Agency, as well as any costs associated therewith, for the purpose of Housing Commission monitoring and reporting to Agency of Developer's compliance with affordable housing operations, accounting and record keeping standards and requirements.

Attachment No. 4

SCOPE OF DEVELOPMENT

I. DEVELOPER RESPONSIBILITIES

A. General

The development is planned to be located on the "Property," which is on approximately 120,500 square feet of low income residential rental apartments and associated underground and sub-terrain parking garage to be constructed on the Property, consisting of 85 residential units, 84 of which shall be rented to Very Low Income and Low Income households, plus one manager unit, located on the south side of Logan Avenue between Sigsbee and Beardsley streets, within the City of San Diego, State of California.

B. Urban Design Standards

The proposed development, including its architectural design concepts, landscape features and off-site improvements, shall be subject to design review by the Agency in accordance with adopted procedures. The following specific conditions, will be used as a basis for evaluating the development through all stages of the design review process.

1. Architectural Standards

The architecture of the development shall establish a high quality of design and complement the Barrio Logan community according to the input of the Barrio Logan Project Area and Planning Committees.

Building facades shall be varied both horizontally and vertically to create visual interest.

The structures shall emphasize the scale, proportion, and massing of Barrio Logan with contemporary design features satisfactory to Agency.

2. Building Materials

Framing elements such as bulkheads may be painted stucco, fiberglass, or other highly finished materials.

Window frames should be vinyl.

No grates, grills, bars, either permanent, retractable or temporary shall be permitted on windows, doors or alcoves.

Reflectivity of the glass shall be the minimum reflectivity required by Title 24.

A materials board which illustrates the location, color, quality and texture of proposed exterior materials shall be submitted with Design Development Drawings.

3. Street Level Design

Ground floors shall be a minimum of 10 feet height.

Access through the secured ground floor lobby that also houses a leasing office. A landscape buffer is proposed around portions of the property with landscape planters flanking the stoops in front of the property.

Architectural features such as recessed awnings, or other design features which add human scale to the streetscape, are encouraged where they are consistent with the design theme of the structure.

4. Roof Tops

Mechanical equipment, vents or other roof top appurtenances must be grouped, painted out and architecturally screened or enclosed from view of surrounding buildings.

Ventilation devices shall conform to requirements set forth in the Uniform Building Code and Uniform Mechanical Code.

5. Signing

All signage plans shall comply with the Municipal Code and standards contained in Chapter XI of the San Diego Municipal Code and shall be prepared and submitted in conjunction with submittal of Design Development Drawings.

No sign, inflatable display or banner may be located on the roof of any structure.

6. Lighting

A lighting plan for illumination of the project shall be submitted to the Agency for review and approval.

7. Noise Control

All mechanical equipment, including but not limited to, air conditioning, heating and exhaust systems, shall comply with the City of San Diego Noise ordinance and California Noise Insulation Standards as set forth in Title 24 of the California Code of Regulations. The exhaust system for mechanically ventilated structures shall be located to mitigate noise and exhaust impacts on adjoining development, particularly residential.

8. Energy Considerations

The design of the improvements shall include, where feasible, energy conservation construction techniques and design. The Developer shall be required to demonstrate consideration of such energy features during the design review process.

C. Off-site Improvements

1. City Utilities (sewer, water, and storm drain)

The Developer shall be responsible for the connection of on-site sewer, water and roof drain laterals to the appropriate utility mains within the street and beneath the sidewalk. The Developer may use existing laterals if acceptable to the City, and if not, the Developer shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals.

2. Franchise Public Utilities

The Developer shall submit a plan at the Design Development stage which illustrates installation of franchise utilities, including gas, cable TV and electrical -distribution lines within the project as well as the connection of these utilities to franchised infrastructure adjoining the Site.

The Developer shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the project and all extensions of those utilities in public street.

D. Site Preparation

The Developer, at its cost and expense, shall prepare the Site for development. Such Site preparations shall consist of the following:

1. Complete demolition and removal of all existing buildings, other structures and improvements including the removal of all asphalt concrete, concrete, bricks, lumber, pipes, equipment and other material and all debris and rubbish resulting from such demolition.
2. Complete removal of all subsurface improvements, foundations, walls, slabs, basements, tanks and abandoned utilities as necessary to construct the project.
3. Disconnection, capping and removal of utility lines, installations, facilities and related equipment within or on the Site.

All of items (1) through (3) inclusive shall be performed in accordance with City requirements.

E. Removal and/or Remedy of Soil and/or Water Contamination

The Developer shall (at its own cost and expense) remove and/or otherwise remedy to the level of clean-up identified in the environmental remediation plan prepared by a consultant mutually acceptable to Developer and Agency, as required by law and implementing rules and regulations, and as required by appropriate governmental authorities, any contaminated or hazardous soil and/or water conditions on the Site after conveyance of the Site to the Developer. Such work may include without limitation the following:

1. Remove (and dispose of) and/or treat any contaminated soil and/or water on the Site as necessary to comply with applicable governmental standards and requirements.
2. Design and construct all improvements on the Site in a manner which will assure protection of occupants and all improvements from any contamination, whether in vapor or other form, and/or from the direct and indirect effects thereof.
3. Prepare a site safety plan, if required by any governmental entity and submit it to such authority for approval in connection with obtaining a building permit for the construction of improvements on the Site. Such site safety plan shall assure workers and other visitors to the Site of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and/or the effect thereof.
4. Obtain from the County of San Diego and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water contamination, in connection with the development and construction on the Site.

The Developer agrees that the Agency, and its consultants and agents, shall have the right (but not the obligation) to enter upon the Site at any time to monitor the excavation and construction on the Site, to test the soils and/or water on the Site, and to take such other actions as may be reasonably necessary to assure compliance with this Section of the Scope of Development. Nothing herein (including without limitation the Agency's right to inspect) shall be construed to make the Agency, the City, or their respective officers, employees, contractors and agents liable for the responsibilities under the Agreement, including this Scope of Development, and the provisions and requirements of the Agreement shall apply with respect thereto.

F. Environmental Impact Mitigation and Archaeological Protection

The Developer shall implement all mitigation measures and/or mitigation monitoring requirements as identified in the Environmental Impact Secondary Study for this project.

The Developer shall conduct or cause to be conducted, archaeological monitoring of the Site prior to and during demolition and grading activities on the Site.

G. Construction Fence

The Developer shall install a temporary construction chain link. The construction fence shall be maintained free of litter and in good repair for the duration of its installation.

I. Development Identification Signs

Prior to commencement of construction on the Site, the Developer shall prepare and install, at its cost and expense, two signs - on the barricades around the Site (one on each side) which identifies the development. The signs shall be at least four (4) feet by six (6) feet and be visible to passing pedestrian and vehicular traffic. The design of the signs as well as their proposed locations shall be submitted to the Agency for review and approval prior to installation. The signs shall at a minimum include:

- Illustration of the development
- Development name
- Developer
- The phrase: A project of the Redevelopment Agency of the City of San Diego

Mayor Jerry Sanders

Council Members:

- Scott Peters
- Kevin Faulconer
- Toni Atkins
- Tony Young
- Brian Maienschein
- Donna Frye
- Jim Madaffer
- Ben Hueso

--- Completion Date _____

--- For information call _____

The Developer shall obtain a current roster of Redevelopment Agency members before signs are manufactured.

J. Americans with Disabilities Act (ADA)

The Developer acknowledges and agrees that it is aware of and will comply with City of San Diego Council Policy 100-04, adopted by Resolution No. R-282153 relating to the federally-mandated Americans with Disabilities Act (ADA).

K. Fees and Assessments

The Developer shall be responsible for all fees required by the City or other public agency for the construction of the proposed project.

L. Applicable City Codes and Ordinances

Notwithstanding the approval of the project plans by the Agency, the project must meet all requirements of the Uniform Building Code and Uniform Fire Code and all Applicable City Codes and Ordinances.

ATTACHMENT NO. 5

SCHEDULE OF PERFORMANCE

A. GENERAL PROVISIONS

1. Execution of DDA by the Agency. The Agency and City Council shall hold a joint public hearing on the DDA, and, subject to making the requisite findings, authorize execution and execute and deliver the DDA to the Developer. Within forty-five (45) days after submission of executed Agreement by Developer.
2. Submission - Architect, Landscape Architect and Civil Engineer. The Developer shall submit to the Agency for approval the name and qualifications of its Architect, Landscape Architect and Civil Engineer. Not later than execution of Agreement by Developer.
3. Approval - Architect, Landscape Architect and Civil Engineer. The Agency shall approve or disapprove the Architect, Landscape Architect and Civil Engineer. Concurrently with execution of Agreement by Agency.
4. Submission - Basic Concept/Schematic Drawings. The Developer shall submit to the Agency for approval the Basic Concept/Schematic Drawings and related documents. Not later than execution of Agreement by Developer.
5. Approval - Basic Concept/Schematic Drawings. The Agency shall approve or disapprove the Basic Concept/Schematic Drawings and related documents. Concurrently with execution of Agreement by Agency.

B. FINANCING COMMITMENTS

1. Award of Tax Credits. Developer shall apply for and obtain a TCAC allocation of Low Income Housing Tax Credits for the Project. Developer shall apply for Tax Credits in the second 2006 TCAC application cycle. If the Developer is not successful in the second 2006 round, Developer shall re-apply in the first and second 2007 rounds, if necessary. Either party may terminate this Agreement if Developer has not been awarded Tax Credits in or before the second 2007 TCAC application cycle.
2. Inclusionary Housing Program In-Lieu Funds. The Developer shall apply to the Housing Commission for Inclusionary Housing Program In-Lieu Funds. Not later than October 1, 2006.
3. AHP Loan. The Developer shall apply for the AHP Loan. Not later than October 1, 2006 for the second 2006 application cycle. If the Developer is not successful in the second 2006 round, Developer shall re-apply not later than April 1, 2007 for the first 2007 application cycle, and, if necessary, not later than October 1, 2007 for the second application cycle.
4. Evidence of Financing. The Developer shall submit to the Agency commitments for the Construction Loan, including Construction Loan documents, and evidence of Developer's Equity. Not later than thirty (30) days prior to the scheduled Closing Date.

5. Approval of Financing. The Agency shall approve or disapprove the evidence of financing. Approval of Financing. The Agency shall approve or disapprove the evidence of financing.

C. CLOSING AND CONSTRUCTION

1. Submission - 100% Design Development Drawings. The Developer shall prepare and submit to the Agency for approval the 100% Design Development Drawings. Within ninety (90) days after approval of the Planned Development Permit and adoption of Resolution of Necessity.

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

2. Approval - 100% Design Development Drawings. The Agency shall approve or disapprove the 100% Design Development Drawings. Within thirty (30) days after submittal.

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

3. Submission - Final Construction Drawings and Specifications. The Developer shall prepare and submit to the Agency for approval the Final Construction Drawings and Specifications. Within one hundred fifty (150) days after receiving a preliminary tax credit reservation.

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

4. Approval - Final Construction Drawings and Specifications. The Agency shall approve or Within thirty (30) days after submittal.

disapprove the Final Construction Drawings and Specifications.

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

5. Opening of Escrow. The Agency and Developer shall open an escrow for conveyance of the Acquisition Parcel. At least thirty (30) days prior to the date established herein for the Closing.
6. Possession. Subject to the terms and conditions of Section 201, if Agency adopts a resolution of necessity to acquire parcels by eminent domain, Agency shall use its best efforts to obtain title or possession pursuant to Orders of Prejudgment Possession. Not later than one hundred (100) days after Agency execution of the Agreement.
7. Closing Date. Agency and Developer shall satisfy all of their respective conditions precedent to the Closing as provided in Section 209. Not later than one hundred fifty (150) days after award of Tax Credits, but in no event later than December 31, 2007.
8. Local Hiring/Contracting Program. The Developer shall carry out the local hiring/contracting program in accordance with DDA Section 505 and provide a written report to the Agency to describe this program. Prior to the commencement of construction.
9. Equal Opportunity Contracting Program. Developer shall contact the City's Equal Opportunity Contracting Program for a determination of compliance with applicable laws and regulations. Letter of compliance with applicable laws and regulations shall be submitted to the Agency not less than 10 days prior to the commencement of construction.
10. Environmental Services Developer shall submit

- Department. Developer shall letter of verification to contact the City's the Agency indicating it has Environmental Services Dept. complied with this provision and comply with lead and prior to commencing asbestos remediation measures demolition. and a recycling plan prior to initiating demolition.
11. Soil Remediation. Developer shall remediate soil letter of verification to conditions and shall contact the Agency indicating it has the City's Environmental Services Dept. for review of prior to commencing demolition. the remediation activities.
 12. Construction Contract. Within one hundred twenty (120) days after receipt of final building permits. Developer shall deliver to Agency a fully executed construction contract.
 13. Commencement of Construction. Within one hundred twenty (120) days after receipt of final building permits. The Developer shall commence construction of the Improvements on the Site.
 14. Completion of Construction. Within twenty-four (24) months after the commencement of construction Improvements on the Site. The Developer shall complete construction of the

Attachment No. 6

Recording Requested by:

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

When Recorded Return to and
Mail Tax Statements to:

600 B Street, Suite 400
San Diego, California 92101-5072

Attn: Jim LoBue

SPACE ABOVE THIS LINE FOR RECORDING USE

GRANT DEED

FOR A VALUABLE CONSIDERATION in the amount of \$_____, receipt of which is hereby acknowledged the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic of the State of California, herein called "Grantor", acting to carry out the Redevelopment Plan for the Barrio Logan Redevelopment Project, herein called "Redevelopment Plan" under the Community Redevelopment Law of the State of California, hereby grants to La Entrada Housing Investors, L.P., herein called "Grantee," the real property, legally described in the "Legal Description" attached hereto and incorporated herein as Exhibit 6-A.

- (1) Grantor excepts and reserves any existing street, proposed street, or portion of any street or proposed street lying outside the boundaries of the Property which might otherwise pass with a conveyance of the Property.
- (2) Said Property is conveyed in accordance with and subject to the Redevelopment Plan for the Redevelopment Plan for the Barrio Logan Redevelopment Project which was approved and adopted on May 20, 1991 by the City Council of The City of San Diego by Ordinance No. O-17644, including all subsequent amendments, and the Disposition and Development Agreement (the "Agreement") entered into by and between Grantor and Grantee on _____, both documents are public records on file in the offices of the City Clerk of the City of San Diego and the Secretary of Grantor, and are by reference thereto incorporated herein as though fully set forth herein.
- (3) The Property is conveyed to Grantee at a purchase price herein called "Purchase Price," determined in accordance with the uses permitted.

(4). Grantee, on behalf of itself and its successors, assigns, and each successor in interest to Grantee's interest in the Property or any part thereof, hereby covenants and agrees as follows:

a. Grantee, its successors and assigns, shall use the Property only for the uses permitted in the DDA and this Grant Deed, specifically including the following:

(1) The Property shall be developed and used for low income residential rental apartments and associated underground and sub-terrain parking garage to be constructed on the Property, consisting of 85 residential apartments, 84 of which shall be rented to Very Low Income and Low Income households, plus 1 manager unit, all as described in the Scope of Development attached to the DDA.

(2) The maximum incomes of residential tenants eligible to rent the Units shall be determined on the basis of the area median income for San Diego, published approximately annually by the California Housing & Community Development Department [HCD].

(3) The maximum rent that may be charged to tenants, including a reasonable utility allowance, shall not exceed the lower of: (a) the maximum rent permitted by applicable federal or state Low Income Housing Tax Credit requirements, during the time that the Units are subject to such requirements; or (b) an "affordable rent" for a Very Low Income and Low Income households, which, for purposes of this Grant Deed, as defined in California Health & Safety Code Sections 50105 and 50079.5.

(4) Grantee agrees that among Very Low and Low Income households who are otherwise eligible to rent the Units to be developed pursuant to the Grant Deed, those persons who have been displaced by any redevelopment project within the City of San Diego shall be given first priority over other eligible persons. The Grantee agrees that prior to the initial rent-up of the Units, Grantee shall consult with and obtain the approval of the Agency in developing a fair marketing plan for renting the Units. The Marketing Plan shall include, among other things, a provision that prohibits preferential treatment or any special advantage being given to the any family member or employee of Developer.

(5) Agency and the City of San Diego Housing Commission [Housing Commission], and their respective successors and assigns, shall have the right, but not the obligation, to monitor and enforce the covenants contained in this subsection 1.a. Grantee covenants that it shall comply with any program required by the California Tax Credit Allocation Committee [CTCAC] to certify and monitor compliance with applicable rent and income restrictions, including the CTCAC Compliance Monitoring Procedure. Provided CTCAC compliance monitoring programs are in effect and apply to the Property, and provided Grantee is complying with such programs and CTCAC transmits copies of all compliance reports to Grantor, Grantee shall not be subject to additional compliance monitoring and reporting requirements of Grantor and/or the Housing Commission, except as provided in California Health and Safety Code Section 33418. Otherwise, Grantee covenants that it shall comply with any program required by Grantor and/or the Housing Commission to enforce said covenants.

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

c. Grantee, its successors and assigns, shall refrain from restricting the rental, sale, or lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and contract entered into with respect to the Property, or any portion thereof, after the date of this Grant Deed shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

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

(2) In leases: "The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry in the leasing, subleasing, transferring, use or enjoyment of the land herein leased nor shall the lease itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants or vendees in the land herein leased."

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

d. Grantee, its successors and assigns, shall maintain the Improvements on the Property in the same aesthetic and sound condition (or better) as the condition of the Property

at the time Agency issues a Certificate of Completion pursuant to the Grant Deed, reasonable wear and tear excepted. This standard for the quality of maintenance of the Property shall be met whether or not a specific item of maintenance is listed below. However, representative items of maintenance shall include frequent and regular inspection for graffiti or damage or deterioration or failure, and immediate repainting or repair or replacement of all surfaces, fencing, walls, equipment, etc., as necessary; emptying of trash receptacles and removal of litter; sweeping of public sidewalks adjacent to the Property, on-site walks and paved areas and washing-down as necessary to maintain clean surfaces; maintenance of all landscaping in a healthy and attractive condition, including trimming, fertilizing and replacing vegetation as necessary; cleaning windows on a regular basis; painting the buildings on a regular program and prior to the deterioration of the painted surfaces; conducting a roof inspection on a regular basis and maintaining the roof in a leak-free and weather-tight condition; maintaining security devices in good working order. In the event Grantee, its successors or assigns fails to maintain the Improvements in accordance with the standard for the quality of maintenance, Agency or its designee shall have the right but not the obligation to enter the Property upon reasonable notice to Grantee, correct any violation, and hold Grantee, or such successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Property.

e. Grantee shall be responsible for the operation of the Improvements either by direct management or by contracting its managerial functions to a third party property manager reasonably acceptable to Grantor which property manager will be charged with managing the Improvements on behalf of the Grantee. Grantor shall have the right to review and approve any such entity prior to its selection by the Grantee. Such approval shall not be unreasonably withheld. Grantee shall include in any such property management agreement a provision providing for the termination of the agreement in the event that the property manager violates any federal, state or local health and safety laws and regulations which are not cured within thirty days following the giving of notice of such violations by Grantor or any other governmental entity; provided, however, that in the case of a violation that cannot be cured within such thirty day period, that such cure shall be commenced within thirty days of notification and shall be diligently prosecuted to completion.

(5.) All conditions, covenants and restrictions contained in this Grant Deed shall be covenants running with the land, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by Grantor, its successors and assigns, and the City of San Diego [City] and its successors and assigns, against Grantee, its successors and assigns, to or of the Property or any portion thereof or any interest therein, and any party in possession or occupancy of said Property or portion thereof. Grantor and the City (and the Housing Commission to the extent provided in paragraph (6) of subsection 1.a. hereof) shall be deemed the beneficiaries of the covenants, conditions and restrictions of this Grant Deed both for and in their own rights and for the purposes of protecting the interests of the community. The covenants, conditions, and restrictions shall run in favor of Grantor and the City, without regard to whether Grantor or City has been, remains, or is an owner of any land or interest therein in the Property or the Project area. Except as provided in the preceding sentence, the covenants, conditions and restrictions contained in this Grant Deed shall not benefit nor be enforceable by any owner of any other real property within or outside the Project area or any person or entity having any interest in any such other real property.

(6.) Grantor shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

(7.) No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage permitted by the Grant Deed. This Grant Deed and the covenants contained herein shall be subordinate to the lien of the deed of trust securing any construction loan and the deed of trust securing any permanent loan to which Grantor has given its consent. Prior to the recordation of the deed of trust securing any such loan, the Executive Director of the Redevelopment Agency of the City of San Diego or designee shall execute such instruments as may be necessary to subordinate this Grant Deed and the covenants contained herein to the lien of the maker of such loan. Any lender to whose lien this Grant Deed is subordinate, who acquires title to the Property by foreclosure, deed in lieu of foreclosure, trustee's sale or similar transfer of title, and the assignees and transferees of such holder, shall not be subject to or bound by the requirements of this Grant Deed. If Grantor secures a Federal AHP Loan or San Diego Housing Commission funding, such loans shall be subordinate to this Grant Deed.

(8.) Every covenant and condition and restriction contained in this Grant Deed shall remain in effect for the longest feasible time, but not less than fifty-five (55) years from the date of the recordation of this Grant Deed.

(9.) Prior to exercising any remedies hereunder, Agency shall give Grantee notice of such default. Grantor shall also give notice of default to Grantee's Tax Credit Investor and to any person or entity having a security interest in the Property secured by a lien that is superior to this Grant Deed. If the default is reasonably capable of being cured within thirty days, Grantee shall have such period to effect a cure prior to exercise of remedies by Grantor. If the default is such that it is not reasonably capable of being cured within thirty days, and Grantee (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then Grantee shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Grantor. In no event shall Grantor be precluded from exercising remedies if Grantor's security in the Property becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety days after the first notice of default is given.

(10.) If a violation of any of the covenants or provisions of this Grant Deed remains uncured after the respective time period set forth in Section 6, above, Grantor and its successors and assigns, without regard to whether Grantor or its successors and assigns is an owner of any land or interest therein to which these covenants relate, may institute and prosecute any proceedings at law or in equity to abate, prevent or enjoin any such violation or attempted violation or to compel specific performance by Grantee of its obligations hereunder. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

(11) Prior to the recordation of a Certificate of Completion issued the improvements to be constructed on the Property thereof:

(a) Grantee shall not make any sale, transfer, conveyance or assignment of the Property or any part thereof or the buildings or structures thereon, without the prior written approval of Grantor, except as expressly permitted by the Grant Deed. In the event that Grantee does sell, transfer, convey or assign any part of the Property or buildings or structures thereon, prior to the recordation of a Certificate of Completion, in violation of this Grant Deed, Grantor shall be entitled to increase the Purchase Price paid by Grantee by the amount that the consideration payable for such sale, transfer, conveyance or assignment is in excess of the Purchase Price paid by Grantee, plus the reasonable transaction costs of such sale, transfer, conveyance or assignment, plus the cost of improvements and development theretofore made to the Property, including carrying charges and costs related thereto. The consideration payable for such sale, transfer, conveyance or assignment to the extent it is in excess of the amount so authorized shall belong and be paid to Grantor and until paid Grantor shall have a lien on the Property and any part involved for such amount. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property, nor shall it prohibit granting any security interests permitted herein for financing the acquisition and development of the Property. The lien created hereby shall be subordinate and subject to any such security interests.

(b) Grantee shall not place or suffer to be placed on the Property any lien or encumbrance other than mortgages, deeds of trust, conveyances and leases back or any other form of conveyance required for any reasonable method of financing of the acquisition of the Property, the construction of improvements on the Property, and any other expenditures necessary and appropriate to develop the Property as permitted by the Grant Deed. Grantee shall notify Grantor in advance of any such conveyance for financing if Grantee proposes to enter into the same prior to recordation of a Certificate of Completion for the improvements to be constructed on the Property. Grantee shall not enter into any such conveyance for financing without prior written approval of Grantor, which approval Grantor agrees to give if any such financing is consistent with the Grant Deed.

(12) Prior to the recordation of a Certificate of Completion issued by Grantor for the improvements to be constructed on the Property or on any part thereof:

(a) Grantor shall have the right at its option to reenter and take possession of the Property hereby conveyed with all improvements thereon and to terminate and revest in Grantor the Property hereby conveyed to Grantee if Grantee (or its successors in interest) shall:

(i) Fail to commence construction of the improvements as required by the Grant Deed for a period of three (3) consecutive months after written notice to proceed from Grantor (referring to this paragraph), provided that Grantee shall not have obtained an extension or postponement to which Grantee may be entitled; or

(ii) Abandon or substantially suspend construction of the improvements for a period of three (3) consecutive months after written notice of such abandonment or suspension from Grantor (referring to this paragraph), provided that Grantee

shall not have obtained an extension or postponement to which Grantee may be entitled pursuant to this Grant Deed; or

(iii) Transfer, or suffer any involuntary transfer of, the Property, or any part thereof in violation of this Grant Deed, and such violation shall not be cured within thirty (30) days after the date of the receipt of written notice thereof (referring to this paragraph) by Grantor to Grantee.

(b) The right to reenter, repossess, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid, or limit:

(i) Any mortgage or deed of trust or other security interest permitted by this Grant Deed; or

(ii) Any rights or interests provided for the protection of the holders of such mortgages, deeds of trust, or other security interests; or

(c) The right to reenter, repossess, terminate and revest shall not apply to the Property, or portions thereof, for which a Certificate of Completion has been issued by Grantor and recorded, or should have been issued pursuant to the DDA.

(d) In the event title to the Property or any part thereof is revested in Grantor as provided in this paragraph (12), Grantor shall, pursuant to its responsibilities under state law, use its diligent and good faith efforts to resell the Property or the part thereof which has revested, as soon and in such manner as Grantor shall reasonably find feasible and consistent with the objectives of such law and of the Redevelopment Plan to a qualified party or parties (as determined by Grantor) who will assume the obligation of making or completing the improvements or such other improvements in their stead as shall be reasonably satisfactory to Grantor and in accordance with the uses specified for such Property or part thereof in the Redevelopment Plan. Agency shall use its best efforts to receive the fair market price for the sale of the Site or part thereof which has revested. In the event that a sale of the Site or part thereof is by bid, Developer shall have the right to submit a bid. Upon such resale of the Property, the proceeds thereof shall be applied:

(i) First, to reimburse Grantor, on its own behalf or on behalf of the City of San Diego for all costs and expenses incurred by Grantor, including but not limited to salaries to personnel engaged in such action, in connection with the recapture, management, and resale of the Property or part thereof (but less any income derived by Grantor from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by Grantor, then such taxes, assessments, or charges, as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of Grantee, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Property or

part thereof; and any amounts otherwise owing to Grantor by Grantee and its successor or transferee; and

(ii) Second, to reimburse Grantee, its successor or transferee, up to the amount equal to: the sum of (1) the Purchase Price paid to Grantor by Grantee for the Property (or allocable to the part thereof), and (2) the costs incurred for the development of the Property (or such part thereof) and for the improvements existing thereon at the time of reentry and repossession; less (3) any gain or income withdrawn or made by Grantee from the Property (or such part thereof) or from the improvements thereon. For purposes of this paragraph the term "cost incurred" shall include direct, out-of-pocket expenses of development, but shall exclude Grantee's general overhead expense.

(iii) Any balance remaining after such reimbursements shall be retained by Grantor as its property.

(e) To the extent that this right of reverter involves a forfeiture, it must be strictly interpreted against Grantor, the party for whose benefit it is created. This right is to be interpreted in light of the fact that Grantor hereby conveys the Property to Grantee for development and not for speculation in undeveloped land.

(13) The conditions contained in paragraphs (11) and (12) of this Grant Deed, and all rights and obligations under the DDA referred to in paragraph (2) hereof, shall terminate and become null and void upon recordation of a Certificate of Completion issued by Grantor for the Property or the applicable portion thereof. Every other covenant and condition and restriction contained in this Grant Deed (subject to the following sentence) shall remain in effect during the duration of the Redevelopment Plan. The covenants contained in paragraph (4) of this Grant Deed shall remain in perpetuity.

(14) In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that Grantor shall be deemed a beneficiary of the agreements and covenants provided hereinabove both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of Grantor, and such covenants shall run in favor of Grantor for the entire period during which such covenants shall be in force and effect, without regard to whether Grantor is or remains an owner of any land or interest therein to which such covenants relate. Grantor shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

(15) No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest permitted by paragraph (4) (b) of this Grant Deed; provided, however, that any subsequent owner of the Property shall be bound by such remaining covenants, conditions, restrictions, limitations, and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

(16) None of the terms, covenants, agreements or conditions heretofore agreed upon in writing in other instruments between the parties to this Grant Deed with respect to obligations to be performed, kept or observed by Grantee or Grantor in respect to said Property or any part thereof after this conveyance of said Property shall be deemed to be merged with this Grant Deed until such time as a Certificate of Completion issued by Grantor is recorded for the Property conveyed hereby or such part thereof.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized this _____ day of _____, 2006.

Grantor-Agency:

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

By: _____

The grantee hereby accepts the written deed, subject to all of the matters hereinbefore set forth.

**LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,**

Dated: _____

By: _____

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels
President

Exhibit 6-A

DESCRIPTION OF THE PROPERTY

LA ENTRADA FAMILY HOUSING PROJECT

PROJECT BUDGET

26-May-06

SOURCES:

Construction Sources:

Construction Loan	\$ 9,326,000	
SHS Predevelopment Loan	2,044,000	
Costs Paid at Perm. Loan Closing	1,628,000	
Tax Credit Equity	13,579,000	
Agency Loan	13,167,000	
Cash Flow From Operations prior to Perm. Loan Funding	241,000	
Paydown of SHS Predevelopment Loan	(2,044,000)	
		<u>\$ 37,941,000</u>

Permanent Sources:

Permanent Loan	\$ 4,635,000	
Tax Credit Equity	19,398,000	
Affordable Housing Program (AHP) Loan	350,000	
Deferred Developer Fee	500,000	
Housing Commission Funds	1,500,000	
Agency Loan	11,317,000	
Cash Flow From Operations prior to Perm. Loan Funding	241,000	
		<u>\$ 37,941,000</u>

USES:

Land		\$ 8,500,000
Relocation Costs		1,000,000
Remediation Costs		1,000,000
Direct Costs		
Off-Site Improvements	\$ 159,000	
On-Site/Landscaping	700,000	
Demolition	529,000	
Parking - Subteranean	3,686,000	
Shell Construction	15,063,000	
Shell Construction - Courtyard	-	
Community Room	-	
FF&E	-	
Contingency	1,057,000	21,194,000
Indirect Costs		
Architecture & Engineering	\$ 1,110,000	
Permits & Fees	1,020,000	
Legal & Accounting	222,000	
Taxes & Insurance	444,000	
Developer Fee	1,500,000	
Marketing/Lease-Up	95,000	
Contingency	220,000	4,611,000
Financing Costs		
Loan Fees	\$ 357,000	
Interest During Construction	903,000	
TCAC Fees	197,000	
Operating Reserve	179,000	
Post Construction Period Interest	-	1,636,000
		<u>\$ 37,941,000</u>

FOOTNOTE:

Agency (CCDC) funds will cover the shortfall in case AHP and/or Housing Commission funds are not received in full

Attachment No. 8

**NON RECOURSE RESIDUAL RECEIPTS PROMISSORY NOTE
TO THE REDEVELOPMENT AGENCY
OF THE CITY OF SAN DIEGO**

3% Interest

\$ _____

San Diego, California
[DATE OF CLOSING]

FOR VALUE RECEIVED, LA ENTRADA HOUSING INVESTORS, 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 THIRTEEN MILLION, ONE HUNDRED SIXTY-SEVEN THOUSAND DOLLARS and No/100 Cents (\$13,167,000) [Agency Residual Receipts Loan]. This Note is given pursuant to that certain Disposition and Development Agreement [DDA] dated _____, 2006, between LA ENTRADA HOUSING INVESTORS, L.P., [Developer therein] and the Agency, and evidences the Agency Residual Receipts Loan to Borrower, which provides part of the financing for the development of that certain real property in the City of San Diego legally described in the Agency Deed of Trust securing this Note [Property]. The obligation of Borrower to Agency hereunder is subject to the terms of the DDA, this Note and the following instruments, each dated on or about the date hereof, and executed by Borrower for the purpose of securing this Note: a Grant Deed (Including Rental Restrictions) [Grant Deed]; 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]; an Assignment of Agreements [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. The Note shall be paid in accordance with the provisions contained herein, and in any event shall be paid in full by that date which is fifty-five years after the execution hereof.

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

“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 10 percent 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 50 percent 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 Residual Receipts Loan evidenced hereby and the Agency Deferred Payment Loan and the promissory note evidencing the Agency Deferred Payment Loan.

“Agency Residual Receipts Loan” shall mean the construction/permanent loan made by the Agency to Borrower pursuant to the DDA in the amount of \$13,067,000, which is evidenced by this Note.

“Agency's Share of Residual Receipts” shall mean the 50 percent of the Residual Receipts allocated to the Agency in years 1-30 and 80 percent of the Residual Receipts allocated to the Agency in years 31-55 pursuant to paragraphs (b) and (c) of Section 8 of this Note.

“Annual Financial Statement” shall mean the annual audited financial statement of 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 paid by the Borrower for the purpose of managing the affairs of the Borrower's partnership, including any “syndication management fee” required by the Borrower's Tax Credit Equity Investor limited partner.

“Construction Loan” shall mean the construction period loan in the approximate amount of \$9,326,000 made by SHS Capital L.P. to Borrower [the maker of such loan to be referred to as the Construction Lender], and to be secured by a deed of trust that is senior and superior to the Agency Deed of Trust.

“Development Costs” shall mean costs of the development of the Property including acquisition and construction of improvements thereon in accordance with the DDA.

“Gross Income” shall mean the gross rental income from all residential and non-residential components of the Improvements, and any other income to the Borrower derived from the ownership, operation and management of the Property.

“Improvements” shall mean the low income residential rental apartments and associated underground and sub-terrain parking garage to be constructed on the Property, consisting of 85 residential apartments, 84 shall be rented to exclusively Very Low and Low Income households, plus one manager unit, all as described in the Scope of Development, all as described in the DDA.

“Limited Partner Capital Contributions” shall mean approximately \$19,398,000 to be provided, in two or more disbursements, by the Tax Credit Equity Investor of Borrower as

proceeds of a Low Income Housing Tax Credit syndication, including approximately \$13,579,000 during the construction period.

“Mortgagee” shall mean any maker of a Permitted Mortgage Loan to Borrower.

“Operating Expenses” shall mean actual, reasonable and customary costs, fees and expenses directly attributable to the operation, maintenance, taxes and management of the Improvements and the Property, expressly including, without limitation: debt service on any loan that is senior in priority to the Agency Deed of Trust; onsite administrative costs (including salaries and benefits); maintenance costs (including materials and labor); reasonable and customary payments to an operating reserve account; reasonable and customary payments to a replacement reserve account, not to exceed \$300 per unit per year, subject to annual increases up to 3.5 percent; painting, cleaning, repairs and alterations; landscaping; utilities; rubbish removal; certificates, permits and licenses; sewer charges; real and personal property taxes and assessments; insurance; security; advertising, promotion and publicity; office, janitorial, cleaning and building supplies; cable television, satellite and similar facilities; recreational amenities, supplies and services; a reasonable property management fee, at a maximum of \$40 dollars per unit, per month, to be increased for inflation at the rate determined by industry standards; purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishings (other than from reserves); fees and expenses of accountants, attorneys, consultants and other professionals, including annual audits and tax return preparation costs payable to a third party; and the amortized value of tenant improvements. Operating Expenses shall include any fees paid to the general partner, and any Asset Management Fee, syndication management fee or any other similar fee paid to the Tax Credit Equity Investor and the repayment of limited partner loans made pursuant to the partnership agreement. The combined general partner and limited partner Asset Management Fees shall not exceed \$12,500, annual escalation at CPI. The calculation of Operating Expenses shall be subject to the reasonable approval of the Agency.

“Permanent Loan” shall mean any loan approved by the Agency that repays all or a part of the Construction Loan as provided in the Method of Financing attached to the DDA.

“Permitted Mortgage” means any conveyance of a security interest in the Property to one or more Mortgagees to secure any loan to finance the development of the Property as required by the DDA, specifically including the Construction Loan and the Permanent Loan, or any loan to refinance the Construction Loan, Permanent Loan or other loan specifically described in the 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.

“Permitted Mortgage Loan” means the obligations secured by a Permitted Mortgage.

“Permitted Transfer” means any of the following:

- (1) Any Permitted Mortgage;
- (2) A conveyance of the Property to any Affiliate or a sale back from such Affiliate to Developer;

- (3) The contribution of capital to the Developer and the admission to Developer of the Tax Credit Equity Investor;
- (4) The lease for occupancy of all or any part of the Improvements on the Property; and
- (5) The granting of easements or permits to facilitate the development of the Property in accordance with this Agreement; and
- (6) Neither Agency's consent to nor the payment of fees, costs and expenses in connection with the removal and replacement of Borrower's general partner shall be required provided that the removed general partner is replaced by an Affiliate (as hereinafter defined) of Developer's existing limited partner. For the purposes of this subsection, the term "Affiliate" shall mean Affordable Multi-Family, LLC, Simpson Housing LLLP, Simpson Housing Solutions, LLC (each a "Simpson Entity" and collectively, "Simpson Entities") or any entity in which a Simpson Entity or Simpson Entities is a "controlling person" (as defined in Section 20(a) of the Securities Exchange Act of 1934, as amended) or in which a Simpson Entity or Simpson Entities is the (a) general partner, (b) managing member, or (c) limited partner or investor member owning more than 49% of the limited partner or membership interests in such limited partnership or limited liability company, as the case may be. If such a removal or replacement of Developer's general partner occurs, Developer shall immediately inform the Agency of such action and the reason for the action.

Any transfer described in clauses (1) through (4) shall be subject to the reasonable approval of the Agency Executive Director or designee in accordance with the standards set forth in the respective provisions of this Agreement.

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

"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 the Gross Income, less the Operating Expenses, calculated on a calendar year basis. All calculations of Residual Receipts shall be subject to verification and reasonable approval by the Agency.

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

2. This Note evidences the obligation of the Borrower to the Agency for the repayment of the Agency Residual Receipts Loan. None of the funds provided pursuant to the Agency Residual Receipts Loan were funded (i) 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 (ii) pursuant to any United States government federal source, except as provided below. (Check if appropriate):

- The funds were obtained from assistance provided under Section 106, 107 or 108 of the Housing and Community Development Act of 1974 (CDBG funds); or
- The funds were obtained pursuant to the Home Investment Partnership Act; or
- None of the above.

3. This Note is payable at the principal office of Agency, 600 B. Street, Suite 400, San Diego, California 92101-5072, or at such other place as the holder hereof may inform the Borrower in writing, in lawful money of the United States.

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

5. This Note shall bear interest at the rate of 3 percent per annum, simple interest.

6. Except in the event of a default described in Section 7 hereof, 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) any refinancing, Cost Savings or Additional Proceeds, subject to the limitations set forth in Section 9, below.

7. The entire unpaid principal balance of this Note shall be due and payable immediately in the event, prior to the end of the fifty-five-year term hereof, either of the following shall occur:

(a) 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; or

(b) there is a default by the Borrower under the terms of this Note, the Agency Deed of Trust, the DDA, the Agreement Containing Covenants or any deed of trust or other instrument securing the Construction Loan, Permanent Loan and or Ground Lease 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. Prior to the expiration of the fifty-five-year term hereof, Borrower shall be obligated to repay the Agency Residual Receipts Loan exclusively from the Agency's share of Residual Receipts, as follows:

(a) Annually, not later than the first day of April (commencing with such date occurring in the year after the year in which the City of San Diego issues a certificate of occupancy for the Property), Borrower shall submit to Agency an audited Annual Financial Statement for the preceding calendar year, prepared by a certified public accountant reasonably acceptable to the Agency, determining the amount of Residual Receipts, if any, generated in that year. The first such Annual Financial Statement shall be for a partial year commencing upon the issuance of the certificate of completion. The Agency shall review and approve such Annual Financial Statement, or request revisions, within thirty 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 1 percent over the Prime Rate announced by Bank of America, but in any event within ten days of notice of such increase. Residual Receipts shall first be applied against payment in full of the Developer Fee and interest thereon, set at the appropriate federal rate, before they are paid against the Agency's Residual Receipts Loan.

(b) Annually, commencing the first day of April following the payment to Developer of the Deferred Developer Fee, Borrower shall calculate its Residual Receipts as provided in paragraph (a) of this Section 8, and allocate and pay to the Agency an amount equal to 50 percent of the Residual Receipts in years 1-30, then 80 percent in years 31-55. Any outstanding balance shall be immediately due and payable on the date that is fifty-five (55) years from the commencement of the First Operating Year.

(c) All payments to the Agency shall be applied first to interest, then to reduce the principal amount owed.

9. The Agency Residual Receipts Loan evidenced by this Note is based on the assumption that Borrower's construction loan in the approximate original principal amount of \$9,326,000, to be secured by a first priority deed of trust [Construction Loan], would be repaid upon completion of construction and rent-up in part by the proceeds of a permanent loan in the approximate original principal amount of \$4,635,000 [Permanent Loan].

(a) To the extent final Development Costs, as determined by a cost certification performed not later than ninety days following completion of construction, at Owner's expense, by a Certified Public Accountant acceptable to the Agency, are less than those described in Section 2 of the Method of Financing, subject to change to reflect total estimated Development Costs in the Project Budget approved by Agency prior to the Close of Escrow), the resulting cost savings [Cost Savings] shall be allocated first to pay the deferred developer fee with interest and second to reduce the principal amount of the Agency Residual Receipts Loan.

10. (a) Prior to the repayment in full of the Agency Residual Receipts Loan, the Borrower shall not assign or attempt to assign the DDA 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 and in the DDA. 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 10, 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 10(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 DDA, the Grant Deed 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 DDA and the Agreement Containing Covenants, and agree to be subject to all conditions and restrictions applicable to the Borrower in this Note, subject to the provisions of subsection 10(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 the DDA or the Grant Deed.

(d) In the event of a Transfer prior to the time the Agency Residual Receipts Loan is paid in full without the prior written consent of the Agency, the remaining principal balance of the Agency Residual Receipts 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 10, 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 the DDA, except for the following: (A) a cumulative change in ownership interest of any partner of 49 percent 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 this Note and the DDA.

(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.

11. The Agency Residual Receipts 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 Grant Deed.

12. Subject to the provisions and limitations of this Section 12, the obligation to repay the Agency Residual Receipts Loan is a nonrecourse obligation of the Borrower and Borrower's partners. Borrower shall not have any personal liability for repayment of the loan, except as provided in this Section 12. The sole recourse of Agency shall be the exercise of its rights against the Property and any related security for the Agency Residual Receipts 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 and Borrower's partners 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; or (f) 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, up to the amount diverted, 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, 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 partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general partner of such member or general partner;

(b) any damages, costs and expenses incurred by Agency as a result of any misappropriation of funds provided for the construction of the Project, as described in the DDA, 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 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).

13. 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.

14. Upon the failure of Borrower to perform or observe any other term or provision of this Note, or upon the occurrence of any event of default under the terms of the Agency Deed of Trust, the DDA or the Grant Deed, or any deed of trust securing the Construction Loan or Permanent Loan or other obligations secured by a deed of trust on the Property, the holder may exercise its rights or remedies hereunder or thereunder.

15. (a) Subject to the extensions of time set forth in Section 16, and subject to the further provisions of this Section 15, failure or delay by Borrower to perform any material term or provision of this Note, the Agency Deed of Trust, the DDA or the Grant Deed, or any deed of trust securing the Construction Loan or Permanent Loan and or Ground Lease 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 Construction Loan or Permanent Loan and or Ground Lease or other obligations secured by a deed of trust on the Property, prior to exercising any remedies hereunder or thereunder Agency shall give Borrower written notice of such default. Borrower shall have sixty (60) days 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 days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of the DDA, this Note, the Agency Deed of Trust, the Grant Deed or any document implementing the DDA or any

deed of trust securing the Construction Loan or Permanent Loan and or Ground Lease or other obligations secured by a deed of trust on the Property, prior to exercising any remedies hereunder or thereunder, Agency shall give Borrower notice of such default. If the default is reasonably capable of being cured within thirty 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 DDA, the Grant Deed, 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 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 cure the default within a reasonable time, the Agency shall give Borrower and, as provided in paragraph (f), below, the Tax Credit Equity Investor of Borrower notice thereof, whereupon the Tax Credit Equity Investor may 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. The Agency agrees to accept cures tendered by the Tax Credit Equity Investor within the cure periods provided in this Note or within the time periods provided in Civil Code Section 2924c, whichever is longer. Additionally, in the event the Tax Credit Equity Investor is precluded from curing a non-monetary default due to an inability to remove the [general partner or managing member] as a result of a bankruptcy, injunction, or similar proceeding by or against Borrower or the general partner of Borrower, the Agency agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Tax Credit Equity Investor is so precluded from acting, not to exceed ninety days, provided such Tax Credit Equity Investor is otherwise in compliance 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 days after the notice of default is received or deemed received.

(f) After Borrower gives written notice to Agency the Tax Credit Equity Investor as the investor limited partner, Agency shall send to the Tax Credit Equity Investor a copy of all notices of default and all other notices that Agency sends to Borrower, at the address for the Tax Credit Equity Investor as provided by written notice to Agency by Borrower.

(g) 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.

16. 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 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 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.

17. 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.

18. (a) The Agency Deed of Trust securing this Note shall be subordinate and junior during the construction period to the Construction Loan deed of trust.

(b) Following reconveyance of the Construction Loan deed of trust, the indebtedness evidenced by this Note shall be subordinate in right of payment to the prior payment in full of the Permanent Loan and or Ground Lease and the regulatory agreement recorded in connection with the Low Income Housing Tax Credits.

19. Borrower shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty.

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

LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,

Dated: _____

By: _____

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels
President

Attachment No. 9

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

Recording Requested by and
When Recorded Mail to:

THE REDEVELOPMENT AGENCY OF THE CITY
OF SAN DIEGO
600 B Street, Suite 400
San Diego, California 92101-5072

Attn: Jim LoBue

SPACE ABOVE THIS LINE FOR RECORDER'S USE

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

This Subordinate Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) is made as of _____, 20__, by LA ENTRADA HOUSING INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP [hereinafter collectively referred to as Trustor] whose address is 531 Encinitas Blvd., Suite 206, Encinitas, CA 92024, to First American Title Insurance Company, a California corporation [hereinafter called Trustee], for the benefit of the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic [hereinafter called Beneficiary], whose address is 600 B Street, Suite 400, San Diego, California 92101-5072.

Witnesseth: That subject to the rights of any senior lender, Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION the following property [Trust Estate]:

1. That certain real property in the City of San Diego, County of San Diego, State of California more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof [such interest in real property is hereafter referred to as the Subject Property].
2. All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property [Improvements].
3. All tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefiting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights

[Appurtenances]. [The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the Real Property].

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

5. All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code [UCC], and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, theater equipment, seating, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor [the "Goods," and together with the Real Property, the Property].

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

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

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

1. Due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:

- (a) that certain Residual Receipts Promissory Note executed by Trustor [Borrower therein] of even date herewith [Residual Receipts Note];
- (b) the Disposition and Development Agreement dated _____, [DDA], between Trustor [Owner therein] and Beneficiary [Agency therein];
- (c) the Grant Deed between Trustor [referred to as Grantee therein] and Beneficiary [Grantor therein], recorded concurrently herewith [Grant Deed]; and
- (d) payment of indebtedness of the Trustor to the Beneficiary equal to \$13,167,000 according to the terms of the Residual Receipts Note.

Said Residual Receipts Note [Note] and the DDA and Grant Deed [collectively, with the Note, referred to as the Secured Obligations] and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby.

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

1. That Trustor shall pay the Note at the respective times and in the manner provided therein, and perform the obligations of the Owner as set forth in the DDA and Grant Deed at the time and in the manner respectively provided therein.

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

3. That the Secured Obligations are incorporated in and made a part of the Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.

4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the DDA and the Grant Deed.

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

6. That Trustor will keep the improvements now existing or hereafter erected on the property insured against loss by fire and such other hazards, casualties, and contingencies as may reasonably be required in writing from time to time by the Beneficiary, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies. In no event shall the amounts of coverage be less than 100 percent of the insurable value of the Property. Such policies shall be endorsed with standard mortgage clause with loss payable to the Beneficiary and certificates thereof together with copies of original policies shall be deposited with the Beneficiary.

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

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

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

10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Following default, after the giving of notice and the expiration of any applicable cure period, Beneficiary or Trustee being authorized to enter upon said property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, may pay necessary expenses, employ counsel, and pay his reasonable fees.

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments. All such payments made by the Beneficiary shall be added to the indebtedness and obligations secured hereby.

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

13. That upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period, to keep and perform all the covenants, conditions, and agreements of said OPA, the entire indebtedness evidenced by the shall at the option of the Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding.

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

15. That any and all improvements made or about to be made upon the premises covered by the Deed of Trust, and all plans and specifications, comply with all applicable

municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of the Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, subject to the rights of any beneficiary of a deed of trust senior in priority to this Deed of Trust [Senior Lender], Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. Subject to the rights of any Senior Lender, all such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorney's fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, shall be applied to the amount due under the secured hereby. No amount applied to the reduction of the principal shall relieve the Trustor from making regular payments as required by the Note secured hereby.

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

19. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States,

payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its Deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of (1) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorney's fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (2) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate specified in the ; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.

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

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

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

23. The trust created hereby is irrevocable by Trustor.

24. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

25. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law

the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

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

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

28. Trustor agrees that the indebtedness secured by this Deed of Trust is made expressly for the purpose of financing the construction of improvements thereon as provided in the DDA and to be operated as provided in the Grant Deed.

29. Trustor agrees that, except as otherwise provided in the Note or in the DDA, upon sale or refinancing of the property, the entire indebtedness secured by this Deed of Trust shall at the option of Beneficiary be immediately due and payable.

30. Notwithstanding specific provisions of this Deed of Trust, non-monetary performance hereunder shall not be deemed to be in default where delays or defaults are due to: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; acts of terrorism, epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor or supplier; acts of the other party; acts or failure to act of the City of San Diego or any other public or governmental agency or entity (except that any act or failure to act of Beneficiary shall not excuse performance by Beneficiary); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause [a Force Majeure Delay] shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other party more than thirty days after the commencement of the cause, the period shall commence to run only thirty days prior to the giving of such notice. Times of performance under this Deed of Trust may also be extended in writing by the Beneficiary and Trustor. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until Trustor delivers to Beneficiary written notice describing the event, its cause, when and how Trustor obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Trustor shall deliver such written notice within fifteen days after it obtains actual knowledge of the event.

31. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described

herein, the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.

32. (a) Subject to the provisions, including extensions of time set forth Section 30, and subject to the further provisions of this Section 32, failure or delay by Trustor to perform any term or provision respectively required to be performed under the DDA, the Grant Deed or this Deed of Trust constitutes a default under this Deed of Trust.
- (b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by the Beneficiary. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (c) Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.
- (d) If a monetary event of default occurs under the terms of either Note or this Deed of Trust, prior to exercising any remedies hereunder or thereunder Beneficiary shall give Trustor written notice of such default. Trustor shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Beneficiary under the Note and/or this Deed of Trust. In no event shall Beneficiary 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 days after the notice of default is received or deemed received.
- (e) If a non-monetary event of default occurs under the terms of the DDA, either Note, this Deed of Trust, the Grant Deed or any document implementing the DDA, prior to exercising any remedies hereunder or thereunder, Beneficiary shall give Trustor notice of such default. If the default is reasonably capable of being cured within thirty days after such notice is received or deemed received, Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary under the DDA, the Grant Deed, the Note and/or this Deed of Trust. If the default is such that it is not reasonably capable of being cured within thirty days, and Trustor (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. If Trustor fails to

take corrective action or cure the default within a reasonable time, the Beneficiary shall give Trustor and, as provided in paragraph (f), below, the "Tax Credit Equity Investor" of Trustor, notice thereof, whereupon the Tax Credit Equity Investor may 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. The Beneficiary agrees to accept cures tendered by the Tax Credit Equity Investor within the cure periods provided in the Note or within the time periods provided in Civil Code Section 2924c, whichever is longer. Additionally, in the event the Tax Credit Equity Investor is precluded from curing a non-monetary default due to an inability to remove the general partner as a result of a bankruptcy, injunction, or similar proceeding by or against Trustor or the general partner of Trustor, the Beneficiary agrees to forbear from completing a foreclosure (judicial or non-judicial) during the period during which the Tax Credit Equity Investor is so precluded from acting, not to exceed ninety days, provided such Tax Credit Equity Investor is otherwise in compliance with the foregoing provisions. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety days after the notice of default is received or deemed received.

- (f) Beneficiary shall send to the Tax Credit Equity Investor a copy of all notices of default and all other notices that Beneficiary sends to Trustor, at the address for the Tax Credit Equity Investor as provided by written notice to Beneficiary by Trustor.

33. Subject to the provisions and limitations of this Section 33, the obligation to repay the Agency Loans is a nonrecourse obligation of the Trustor and its partners. Neither Trustor nor its partners shall not have any personal liability for repayment of the loans, except as provided in this Section 33. The sole recourse of Beneficiary shall be the exercise of its rights against the Property and any related security for the Agency Loans. Provided, however, that the foregoing shall not (a) constitute a waiver of any other obligation evidenced by either Note or this Deed of Trust; (b) limit the right of the Beneficiary to name Trustor as a party defendant in any action or suit for judicial foreclosure and sale under either Note and this 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 Trustor; (c) release or impair either Note or this Deed of Trust; (d) prevent or in any way hinder Beneficiary 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 either Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Beneficiary 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 either Note; or (f) 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 either Note and this Deed of Trust. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of a

default, Trustor and its successors and assigns shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Trustor, its principals, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property, 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 Trustor in connection with the operation of the mortgaged Property, which are then due and payable. Notwithstanding the first sentence of this paragraph, Beneficiary may recover directly from Trustor or from any other party:

- (a) any damages, costs and expenses incurred by Beneficiary as a result of fraud or any criminal act or acts of Trustor or any partner, shareholder, officer, director or employee of Trustor, or of any member or general or limited partner of Trustor, or of any general or limited partner of such member or general or limited partner;
- (b) any damages, costs and expenses incurred by Beneficiary as a result of any misappropriation of funds provided for the construction of the Project, as described in the DDA, rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds;
- (c) any and all amounts owing by Trustor pursuant to 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 Beneficiary shall pay Trustor's reasonable court costs and attorneys' fees if Trustor is the prevailing party in any such enforcement or collection action).

34. This Deed of Trust shall be subordinate and junior to (Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing) recorded concurrently herewith securing the Construction Loan made by SHS Capital L.P. and any refinancing thereof, and the Permanent Loan that repays a portion of the Construction Loan. The Executive Director of the Beneficiary or his designee shall execute such instruments as may be necessary to subordinate the lien of this Deed of Trust and the Grant Deed to the deeds of trust described in this Section 34, above, any regulatory agreement recorded in connection therewith and the regulatory agreement between Trustor and the California Tax Credit Advisory Committee to be recorded in connection with the Low Income Housing Tax Credits. In the event of a default or breach by Trustor of any security instrument securing a senior obligation described in this Section 34, Beneficiary shall have the right to cure the default prior to completion of any foreclosure. In such event, Beneficiary shall be entitled to reimbursement by Trustor of all costs and expenses incurred by Beneficiary in curing the default. The amount of any such disbursements shall be a lien against the Subject Property and added to the obligation secured by this Deed of Trust until repaid, with interest at the highest rate permitted by law.

35. If the Project has allocated to it low-income housing tax credits under the provisions of Sections 17058 and 23610.5 of the Revenue and Taxation Code of the State of California and under Section 42 of the Internal Revenue Code of 1986, as amended [Code], then the Project will be subject to certain requirements of Section 42 of the Code, including but not limited to Section 42(h)(6)(e)(ii). Lender acknowledges the provisions of Section 42 of the Code and agrees that, if and to the extent applicable to Lender in connection with the Project, Lender will comply therewith.

36. Subject to the rights of any Senior Lender, in the event of any fire or other casualty to the Project or eminent domain proceedings resulting in condemnation of the Project or any part thereof, Borrower shall have the right to rebuild the Project, and to use all available insurance or condemnation proceeds therefor, provided that (a) such proceeds are sufficient to keep the Loan in balance and rebuild the Project in a manner that provides adequate security to Lender for repayment of the Loan or if such proceeds are insufficient then Borrower shall have funded any deficiency, (b) Lender shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material default then exists under the Loan Documents. If the casualty or condemnation affects only part of the Project and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the Loan in a manner that provides adequate security to Lender for repayment of the remaining balance of the Loan.

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

**LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,**

Dated: _____

By: _____

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels
President

EXHIBIT "A"
LEGAL DESCRIPTION

Attachment No. 10

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

Recording Requested by:
REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

When Recorded Return to:
Redevelopment Agency of the
City of San Diego
600 B Street, Suite 400
San Diego, California 92101

Attn: Jim LoBue

SPACE ABOVE THIS LINE FOR RECORDER'S USE

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES [Assignment] is made as of _____, by LA ENTRADA HOUSING INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP [Assignor], in favor of the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic, its successors, and assigns [Assignee].

RECITALS

A. Assignor is the owner of a fee interest in and to the real property described in Exhibit "A" attached hereto, and the owner of all of the personalty, fixtures, and improvements now or hereafter located thereon or attached thereto now existing or to be constructed thereon. Said real property, personalty, fixtures, and the improvements are herein referred to collectively as the "Premises".

B. Assignee has agreed to make a loan [Loans] to Assignor, in the combined original principal amount of \$13,167,000, pursuant to the terms of that certain Disposition and Development Agreement, by and between Assignor and Assignee, dated _____ [DDA], as evidenced by that certain Residual Receipts Promissory Note of even date herewith, executed by Assignor in favor of Assignee [Note]. The Note is secured by that certain Subordinate Deed of Trust, Security Agreement and Fixture Filing, of even date herewith, executed by Assignor, as Trustor, for the benefit of Assignee, as Beneficiary [Deed of Trust].

C. In order to induce Assignee to make the Loans to Assignor, Assignor has agreed to execute this Assignment.

NOW, THEREFORE, with reference to the foregoing and in reliance thereon and for good and valuable consideration, the receipt of which is hereby acknowledged, Assignor agrees, subject to any assignment to Senior Lender, as follows:

AGREEMENT

1. All initially capitalized terms used herein, unless otherwise defined or required by context, shall have the meaning ascribed to them in the DDA.

2. Assignor hereby absolutely grants, sells, assigns, transfers, and sets over to Assignee, by this Assignment, all of Assignor's interests, whether now existing or hereafter acquired, in all leases and other occupancy agreements of any nature, now or hereafter covering all or any part of the Premises, together with all extensions, renewals, modifications, or replacements of said leases and occupancy agreements, and together with any and all guarantees of the obligations of the lessees and occupants [Lessees] thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. [Said leases and occupancy agreements, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter referred to collectively as the "Leases" and individually as a Lease].

3. Assignor's purpose in making this Assignment is to relinquish to Assignee its right to collect and enjoy the rents, royalties, issues, profits, income, and other benefits at any time accruing by virtue of the Leases [hereinafter called Rents and Profits].

4. The parties intend that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give the Assignee the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on the Indebtedness and other Obligations under the Note and other loan documents, as well as all other sums payable under the Deed of Trust or any other instrument given as security for the Indebtedness. However, the Assignee hereby grants to Assignor a license to collect and use, subject to the provisions set forth below, the Rents and Profits as they respectively become due and to enforce the Leases, so long as there is no Default by Assignor in performance of the terms, covenants, or provisions of the Deed of Trust, the Note or the DDA, this Assignment or any other loan document, after the expiration of any applicable notice and cure periods. Nothing contained herein, nor any collection of Rents and Profits by Assignee or by a receiver, shall be construed to make Assignee a "mortgagee in possession" of the Premises so long as Assignee has not entered into actual possession of the Premises.

5. Upon the occurrence of any Default or Event of Default, after the expiration of any applicable notice and cure periods, under the terms and conditions of this Assignment, the Note, the Deed of Trust, the DDA or any other loan document, this Assignment shall constitute a direction and full authority to each Lessee under any Lease and each guarantor of any Lease to pay all Rents and Profits to Assignee without proof of the Default relied upon. Assignor hereby

irrevocably authorizes each Lessee and guarantor to rely upon and comply with any notice or demand by Assignee for the payment to Assignee of any Rents and Profits due or to become due.

6. Assignor represents and warrants as to each Lease now or hereafter covering all or any portion of the Premises, unless Assignee has been otherwise advised in writing by Assignor:

- a. That each Lease is in full force and effect;
- b. That no material default exists on the part of the Lessee thereunder or Assignor;
- c. That no rent in excess of one month's rent has been collected in advance;
- d. That no Lease or any interest therein has been previously assigned or pledged;
- e. That no Lessee under any Lease has any defense, setoff or counterclaim against Assignor; and
- f. That all rent due to date under each Lease has been collected and no concession has been granted to any Lessee in the form of a waiver, release, reduction, discount, or other alteration of rent due or to become due except as previously disclosed to Assignor in writing.

7. Assignor agrees with respect to each Lease:

- a. If any Lease provides for a security deposit paid by the Lessee to Assignor, this Assignment transfers to Assignee all of Assignor's right, title, and interest in and to each such security deposit; provided, however, that Assignor shall have the right to retain said security deposit so long as Assignor is not in Default, after the expiration of any applicable notice and cure periods, under this Assignment, the Deed of Trust, the Note, the DDA or any other Loan Document; and provided further that Assignee shall have no obligation to the Lessee with respect to such security deposit unless and until Assignee comes into actual possession and control of said security deposit.
- b. If any Lease provides for the abatement of rent during repair of the leased premises by reason of fire or other casualty, Assignor shall furnish rental insurance to Assignee, the policies to be with companies and in form, content, policy limits, and terms as are customary in the case of entities owning similar property or assets similarly situated.
- c. Each Lease shall remain in full force and effect despite any merger of the interest of Assignor and any Lessee thereunder. Except as otherwise provided in the DDA, Assignor shall not terminate any Lease (except pursuant to the terms of the Lease upon a Default by any Lessee thereunder), or materially modify or amend any Lease or any of the terms thereof, or grant any concessions in connection therewith or accept a surrender thereof, without the prior written consent of Assignee, which consent shall not be unreasonably withheld.

d. Except as otherwise provided in the DDA, Assignor shall not hereafter execute any Lease, the terms and conditions of which have not been previously approved in writing by Assignee, which approval shall not be unreasonably withheld or delayed.

e. Assignor shall not collect any Rents and Profits more than thirty days in advance of the date on which they become due under the terms of any Lease.

f. Assignor shall not, without prior written approval of Assignee, discount any future accruing Rents and Profits.

g. Assignor shall not consent to any assignment of any Lease, or any subletting thereunder, whether or not in accordance with its terms, on any terms less favorable than those that would reflect an arm's length transaction in light of prevailing market conditions (subject to the rent restrictions applicable to the Premises), without the prior written consent of Assignee, except as otherwise provided in the DDA.

h. Except as otherwise provided in the DDA, Assignor shall not execute any further assignment of any of the Rents and Profits or any interest therein or suffer or permit any such assignment to occur by operation of law.

i. Assignor shall not request, consent to, agree to, or accept a subordination of any Lease to any mortgage, deed of trust or other encumbrance, or any other lease, now or hereafter affecting the Premises or any part thereof, or suffer or permit conversion of any Lease to a sublease, without Assignee's prior written consent.

j. Assignor shall faithfully perform and discharge all obligations of the lessor under each Lease, and shall give prompt written notice to Assignee of any notice of Assignor's default received from any Lessee or any other person and furnish Assignee with a complete copy of said notice. Assignor shall appear in and defend, at no cost to Assignee, any action or proceeding arising under or in any manner connected with any Lease. If requested by Assignee, Assignor shall enforce each Lease and all remedies available to Assignor against the Lessee in the case of default under the Lease by the Lessee.

k. Assignor shall promptly upon request of Assignee provide to Assignee a true and correct copy of each Lease entered into by Assignor for any part of the Premise. Upon written notice from Assignee to Assignor, such Lease shall be deemed included in this Assignment as though originally listed herein. At Assignee's option, such notice may be recorded in the Official Records of San Diego County, California, which notice shall refer to this Assignment.

l. Except as otherwise provided in the DDA, at Assignee's option, Assignor shall not hire, retain, or contract with any third party for property management services with respect to the Premises, other than the Manager, without the prior written approval of Assignee of such party and the terms of its contract for management services.

m. Nothing herein shall be construed to impose any liability or obligation on Assignee under or with respect to any Lease. Assignor shall indemnify, defend, and hold Assignee, its officers, directors, agents, employees, and representatives [Indemnitees] harmless

from and against any and all liabilities, losses, and damages that any Indemnatee may incur under any Lease or by reason of this Assignment, and of and from any and all claims and demands whatsoever that may be asserted against any Indemnatee by reason of any alleged obligations to be performed or discharged by Assignee under any Lease or this Agreement, unless any of the foregoing arises from or results from the gross negligence or willful misconduct of any Indemnatee. Should any Indemnatee incur any liability, loss, or damage under any Lease or by reason of this Assignment and such liability, loss, or damage falls within the foregoing indemnification, Assignor shall immediately upon demand reimburse such Indemnatee for the amount thereof together with all costs and expenses and reasonable attorneys' fees (based on itemized invoices for time and charges) and court costs incurred by such Indemnatee. All of the foregoing sums shall bear interest at the maximum rate permitted by law from demand by Indemnatee until paid. Any Rents and Profits collected by Assignee may be applied by Assignee, in its discretion, in satisfaction of any such liability, loss, damage, claim, demand, cost, expense, or fees.

8. Assignor hereby grants to Assignee the following rights:

a. Upon an Event of Default as defined in the DDA, Assignee shall be deemed to be the creditor of each Lessee in respect of any assignments for the benefit of creditors and any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership, or other debtor relief proceedings affecting such Lessee, without obligation on the part of Assignee, however, to file timely claims in such proceedings or otherwise pursue creditor's rights therein.

b. Assignee shall have the right to assign Assignor's right, title, and interest in the Leases to any subsequent holder of the Deed of Trust or any participating interest therein or to any person acquiring title to all or any part of the Premises through foreclosure or otherwise. Any subsequent assignee shall have all the rights and powers herein provided to Assignee.

c. Assignee shall have the right (but not the obligation), upon any Event of Default under the Deed of Trust or the DDA, to take any action as Assignee may deem necessary or appropriate to protect its security, including but not limited to appearing in any action or proceeding and performing any obligations of the lessor under any Lease; and Assignor agrees to pay, on demand, all costs and expenses, including without limitation reasonable attorneys' fees and court costs incurred by Assignee in connection therewith, together with interest thereon at the rate of 10 percent per annum.

d. Upon any Default under this Assignment, the Deed of Trust, the Note, the DDA, or any other loan document (subject to any notice and cure provisions), and without notice to or consent of Assignor, Assignee shall have the following rights (none of which shall be construed to be obligations of Assignee):

i. Assignee shall have the right under this Assignment to use and possess, without rental or charge, the Fixtures, Equipment, and Personal Property of the Assignor located in or on the Premises and used in the operation or occupancy thereof. Assignee shall have the right to apply any of the Rents and Profits to pay installments due for Personal Property

rented or purchased on credit, insurance premiums on Personal Property, or other charges relating to Personal Property in or on the Premises. However, this Assignment shall not make Assignee responsible for the control, care, management, or repair of the Premises or any Personal Property or for the carrying out of any of the terms or provisions of any Lease.

ii. Assignee shall have the right to apply the Rents and Profits and any sums recovered by Assignee hereunder to the outstanding Indebtedness, as well as to charges for taxes, insurance, improvements, maintenance, and other items relating to the operation of the Premises.

iii. Assignee shall have the right to take possession of the Premises, manage and operate the Premises and Assignor's business thereon, and to take possession of and use all books of account and financial records of Assignor and its property managers or representatives relating to the Premises.

iv. Assignee shall have the right to execute new Leases of any part of the Premises, including Leases that extend beyond the term of the Deed of Trust.

v. Assignee shall have the right to cancel or alter any existing Leases.

vi. Assignee shall have the irrevocable authority, as Assignor's attorney-in-fact, such authority being coupled with an interest, to sign the name of Assignor and to bind Assignor on all papers and documents relating to the operation, leasing and maintenance of the Premises.

e. All of the foregoing rights and remedies of Assignee are cumulative, and Assignee shall also have upon the occurrence of any such Default or Event of Default all other rights and remedies provided under the Note, the DDA, the Deed of Trust, or any other loan document or other agreement between Assignor and Assignee or between Borrower and Assignee, or otherwise available at law or in equity or by statute subject to the nonrecourse clause set forth in the Note.

9. Failure of Assignee to avail itself of any terms, covenants, or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

10. Notwithstanding any future modification of the terms of the Note, the Deed of Trust, the DDA, or any other loan document, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Assignee in accordance with the terms of this Assignment.

11. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors, and assigns of the parties hereto (including without limitation in the case of Assignee, any third parties now or hereafter acquiring any interest in the Indebtedness or other obligations of Assignor under the Note or Deed of Trust or a part thereof, whether by virtue of assignment, participation, or otherwise). The words Assignor, Assignee, and Lessee, wherever used herein, shall include the persons and entities named herein or in any Lease and designated as such and their respective heirs, legal representatives, successors and assigns, provided that any action taken by the named Assignee or any successor, designated as

such by an instrument recorded in the Official Records of San Diego County, California, referring to this Assignment, shall be sufficient for all purposes notwithstanding that Assignee may have theretofore assigned or participated any interest in the obligation to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

12. Any change, amendment, modification, abridgment, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Assignee.

13. Upon payment to Assignee of the full amount of the Indebtedness and other obligations secured hereby and by the Note and Deed of Trust, as evidenced by a recorded satisfaction or release of the Deed of Trust, this Assignment shall be void and of no further effect.

14. All notices, demands, approvals, and other communications provided for in the Loan Documents shall be in writing and be delivered by telegraph, cable, overnight air courier, personal delivery, or registered or certified U.S. mail, postage prepaid with return receipt requested to the appropriate party at its address as follows:

If to Assignor: LA ENTRADA HOUSING INVESTORS, L.P.
531 Encinitas Boulevard, Suite 206
Encinitas, CA 92024

SIMPSON HOUSING SOLUTIONS, LLC
320 Golden Shore, Suite 200,
Long Beach, CA 90802.

If to Assignee: Redevelopment Agency of the
City of San Diego
600 B Street, Suite 400
San Diego, California 92101
Attention: Jim LoBue

Addresses for notice may be changed from time to time by written notice to all other parties. Any communications given by telegram or cable must be confirmed within forty-eight hours by overnight air courier or mail in the manner hereinbefore described. If any communication is given by mail in the manner hereinabove described, it will be effective upon the earlier of (a) three days after deposit in a post office or other official depository under the care and custody of the United States Postal Service, or (b) actual receipt, as indicated by the return receipt; if given by telegraph or cable, when delivered to the telegraph company with charges prepaid; and if given by personal delivery, or by overnight air courier, when delivered to the appropriate address set forth above.

15. This Assignment may be recorded in the Official Records of San Diego County, California, and Assignor shall pay all fees, charges, costs, and expenses of such recording.

16. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

17. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

18. If Assignee should bring any action to enforce its rights hereunder at law or at equity, Assignor shall reimburse Assignee for all reasonable attorneys' fees and costs expended in connection therewith.

IN WITNESS WHEREOF, the undersigned Assignor has executed this Assignment as of the date first above written.

“ASSIGNOR”

By: _____
Name:
Title:

STATE OF CALIFORNIA)
)ss.
COUNTY OF SAN DIEGO)

On _____, 20__, before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____

STATE OF CALIFORNIA)
)ss.
COUNTY OF SAN DIEGO)

On _____, 20__, before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____

EXHIBIT "A"

LEGAL DESCRIPTION

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

ASSIGNMENT OF AGREEMENTS

FOR VALUE RECEIVED, the undersigned, LA ENTRADA HOUSING INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP [Developer], assigns to the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO [Agency], subject to any pledge or assignment required by any Senior Lender, all of its right, title and interest in and to:

1. All architectural, design, engineering and development agreements, and any and all amendments, modifications, supplements, addenda and general conditions thereto [collectively, Architectural Agreements]; and

2. All plans and specifications, shop drawings, working drawings, amendments, modifications, changes, supplements, general conditions and addenda thereto [collectively Plans and Specifications], heretofore or hereafter into or prepared by any architect, engineer or other person or entity [collectively Architect], for or on behalf of Developer in connection with the construction of the Improvements. The Plans and Specifications, as of the date hereof, are those which Developer has heretofore, or will hereafter deliver to Agency. The Architectural Agreements include, but are not limited to, the architectural contract between Developer and Maple Dell + McClelland Architect, LLP, dated _____, as amended.

This ASSIGNMENT OF AGREEMENT AND PLANS AND SPECIFICATION [Assignment] constitutes a present and absolute assignment to Agency as the Effective Date, subordinate to the rights of _____ [Construction Lender]; provided, however, Agency confers upon Developer the right to enforce the terms of the Architectural Agreements and Developer's rights to the Plans and Specifications so long as no Default has occurred and is continuing under the Disposition and Development Agreement described below [DDA]. Upon the occurrence of a Default under the DDA, Agency may, in its sole discretion, give notice to Architect of its intent to enforce the rights of Developer under the Architect Agreements and of its rights to the Plans and Specifications and may initiate or participate in any legal proceedings respecting the enforcement of said rights. Developer acknowledges that by accepting this Assignment, Agency does not assume any of Developer's obligations under the Architectural Agreements or with respect to the Plans and Specifications.

Developer represents and warrants to Agency, as of the Effective Date, that, to the actual knowledge of Developer: (a) all Architectural Agreements entered into by Developer are in full force and effect and are enforceable in accordance with their terms and no default, or event which would constitute a default after notice or the passage of time, or both, exists with respect to said Architectural Agreements; (b) all copies of the Architectural Agreements and Plans and Specifications delivered to Agency are complete and correct copies; and (c) Developer has not assigned any of its rights under the Architectural Agreements or with respect to the Plans and Specifications, except to the Construction Lender defined above, or other Permitted Mortgagee, as defined in the DDA.

Developer agrees: (a) to pay and perform all obligations of Developer under the Architectural Agreements; (b) to enforce the payment and performance of all obligations of any other person or entity under the Architectural Agreements; (c) not to modify the existing Architectural Agreements nor to enter into any future Architectural Agreements without Agency's prior written approval except as otherwise may be permitted in the DDA; and (d) not to further assign (other than assignment in connection with a loan from the Construction Lender which is senior in priority to Agency's assignment), for security or any other purposes, its rights under the Architectural Agreements or with respect to the Plans and Specifications with Agency's prior written consent.

This Assignment secures performance by Developer of all obligations of Developer under the DDA. This Assignment is supplemented by the provisions of the DDA and said provisions are incorporated herein by reference.

The term "Disposition and Development Agreement" or "DDA" as used herein shall mean the Disposition and Development Agreement dated as of _____ between LA ENTRADA HOUSING INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, and Agency, as well as any future amendments and implementation agreements between Developer and Agency which refer to this Assignment. Capitalized terms not otherwise defined herein shall have the meaning set forth in the DDA.

This Assignment shall be governed by the laws of the State of California, except to the extent that Federal laws preempt the laws of the State of California, and Developer consents to the jurisdiction of any Federal or State Court within the State of California having proper venue for the filing and maintenance of any action arising hereunder and agrees that the prevailing party in any such action shall be entitled, in addition to any other recovery, to reasonable attorney's fees and costs.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, and successors-in-interest of Developer and Agency; provided, however, this shall not be construed and is not intended to waive any restrictions on assignment, sale, transfer, mortgage, pledge, hypothecation or encumbrance by Developer contained in any of the DDA.

The attached Architect's/Engineer's Consent, Schedule 1 and Exhibit A are incorporated by reference.

**LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,**

Dated: _____

By: _____

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels
President

ARCHITECT'S CONSENT

The undersigned architect [Architect] hereby consents to the foregoing Assignment to which this Architect's Consent [Consent] is part, and acknowledges that there presently exists no unpaid claims due to the Architect except as set forth on Schedule 1 attached hereto, arising out of the preparation and delivery of the Plans and Specifications to Developer and/or the performance of the Architect's obligations under the Assignment.

Architect agrees that if, at any time, Agency shall become the owner of said Property, or, pursuant to its rights under the DDA, elects to undertake or cause the completion of construction of the Improvements on any portion of the Property, in accordance with the Plans and Specifications, and gives Architect written notice of such election; THEN, so long as Architect has received, receives or continues to receive the compensation called for under the Agreements, Agency may, at its option, use and rely on the Plans and Specifications for the purposes for which they were prepared, and Architect will continue to perform its obligations under the Agreements for the benefit and account of Agency in the same manner as if performed for the benefit or account of Developer in the absence of the Assignment.

Architect further agrees that, in the event of a breach by Developer of the Agreements, or any agreement entered into with Architect in connection with the Plans and Specifications, so long as Developer's interest in the Agreements and Plans and Specifications is assigned to Agency, Architect will give written notice to Agency of such breach at the address shown below. Agency shall have thirty days from the receipt of such written notice of default to remedy or cure said default. Nothing herein shall require Agency to cure said default or to undertake completion of construction of the Improvements.

Architect warrants and represents that it/he has no knowledge of any prior assignment(s) of any interest in either the Plans and Specifications and/or the Agreements. Except as otherwise defined herein, the terms used herein shall have the meanings given them in the Assignment.

Executed on _____.

"ARCHITECT"

By: _____

Architect's Address:

SCHEDULE OF UNPAID CLAIMS

Schedule 1 to Assignment of Architectural Agreements and Plans and Specifications dated as of _____, between _____, as Developer, and REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, as Agency.

None

PROPERTY DESCRIPTION

Exhibit A to Assignment of Architectural Agreements and Plans and Specifications dated as of _____, between LA ENTRADA HOUSING INVESTORS, L.P. A CALIFORNIA LIMITED PARTNERSHIP, as Developer, and REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO as Agency.

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

ENVIRONMENTAL INDEMNITY

THIS ENVIRONMENTAL INDEMNITY [Indemnity], dated as of _____, made by LA ENTRADA HOUSING INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP [Borrower], whose address for purposes of giving notices is 531 Encinitas Blvd., Suite 206, Encinitas, CA 92024 with a copy to Simpson Housing Solutions, LLC, 320 Golden Shore, Suite 200, Long Beach, CA 90802, in favor of the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, whose address for purposes of giving notices is 600 B Street, Suite 400, San Diego, California 92101 [Agency].

WITNESSETH

WHEREAS, Borrower is the owner of the real property in the City of San Diego, as more particularly described on Exhibit A attached hereto and made a part hereof, and the real property improvements thereon [collectively referred to as the Property];

WHEREAS, Agency and Borrower entered into that certain Disposition and Development Agreement, dated as of _____ [DDA], concerning the disposition by the Agency and development by Borrower of certain real property in the City of San Diego, as more particularly described in Exhibit A, attached hereto and made a part hereof, and the real property improvements thereon [collectively referred to as the Property];

Whereas, pursuant to the DDA, Agency agreed to make a loan to Borrower [Agency Loan] for the purpose of providing part of the financing for the construction of a development consisting of low income residential rental apartments and associated underground and sub-terrain parking garage to be constructed on the Property, consisting of 85 residential units, 84 of which shall be exclusively rented to Very Low Income and Low Income households, plus 1 manager unit, all as described in the Scope of Development of the DDA[Project] [the DDA and the documents and instruments referred to therein which are being executed by Borrower concurrently herewith are referred to collectively as the Loan Documents];

WHEREAS, Borrower has agreed to execute and deliver to the Agency this Indemnity to induce the Agency to make the Agency Loan.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual agreements hereinafter set forth, Borrower hereby agrees with the Agency as follows:

Section 1. DEFINITIONS

For the purpose of this Indemnity, "Hazardous Materials" or "Hazardous Substances" shall include, but not be limited to, substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials," "hazardous waste" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C.

sections 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901, *et seq.*; and those substances defined as "hazardous waste" in section 25117 of the California Health and Safety Code, as "infectious waste" in section 25117.5 of the California Health and Safety Code, or as "hazardous substances" in section 25316 of the California Health and Safety Code or "hazardous materials" as defined in section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws. Other capitalized terms used in this Indemnity shall have the meanings ascribed to them in the DDA with the same force and effect as if set forth in full below.

Section 2. COVENANTS AND INDEMNITY

The following covenants, and indemnities are hereby given and made by Borrower:

2.1 Covenants.

(a) Borrower covenants that it shall comply with any and all laws, regulations, and/or orders which may be promulgated, from time to time, with respect to the discharge and/or removal of Hazardous Materials, to pay immediately when due the costs of the removal of, or any other action required by law with respect to, any such Hazardous Materials, and to keep the Property free of any lien imposed pursuant to any such laws, regulations, or orders.

(b) Borrower covenants that the Property will not, while Borrower is the owner thereof, be used for any activities involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Materials, except for de minimis quantities used at the Property in compliance with all applicable environmental laws and required in connection with the routine operation and maintenance of the Property.

(c) Borrower further agrees that Borrower shall not release or dispose of any Hazardous Materials at the Property without the express written approval of the Agency and that any such release or disposal shall be effected in strict compliance with all applicable laws and all conditions, if any, established by the Agency.

(d) The Agency shall have the right, at any time, to conduct an environmental audit of the Property at the Agency's expense, unless Hazardous Materials are found, then at Borrower's sole cost and expense, and Borrower shall cause Borrower to cooperate in the conduct of any such environmental audit but in no event shall such audit be conducted unless the Agency believes that such audit is warranted. Other than in an emergency, such audit shall be conducted only after prior notice has been given to Borrower and only in the presence of a representative of Borrower. Borrower shall give the Agency and its agents and employees access to the Property to remove, or otherwise to mitigate against the effects of, Hazardous Materials.

(e) Borrower shall not install, or permit to be installed, on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal or state regulations respecting such material, and, with respect to any such material currently present in the Property, Borrower shall promptly either (i) remove or cause to be removed any material that such regulations deem hazardous and require to be removed, or (ii) otherwise comply with such federal and state regulations, at Borrower's sole cost and expense. If Borrower shall fail to so do within the cure period permitted under applicable law, regulation, or order, the Agency may do

whatever is necessary to eliminate said substances from the premises or to otherwise comply with the applicable law, regulation, or order, and the costs thereof shall be added to the Obligations (as hereinafter defined) of Borrower under this Section 2.

(f) Borrower shall immediately advise the Agency in writing of any of the following: (i) any pending or threatened environmental claim against Borrower or the Property or (ii) any condition or occurrence on the Property that (A) results in noncompliance by Borrower with any applicable environmental law, (B) could reasonably be anticipated to cause the Property to be subject to any restrictions on the ownership, occupancy, use or transferability of the Property under any environmental law, or (C) could reasonably be anticipated to form the basis of an environmental claim against the Property or Borrower.

2.2 Indemnity. Borrower shall indemnify, protect, and hold the Agency harmless from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys' and experts' fees and disbursements) of any kind or of any nature whatsoever (collectively, the Obligations) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency and arising from or out of:

- (1) The presence of any Hazardous Materials on, in, under, or affecting all or any portion of the Property or any surrounding areas, except to the extent such Hazardous Materials were caused by the Agency or its agents;
- (2) The breach of any covenant made by Borrower in Section 2.1 hereof; or
- (3) The enforcement by the Agency of any of the provisions of this Section 2.2 or the assertion by Borrower of any defense to its obligations hereunder.

Subject to the qualifications set forth in Section 2.3, below, Borrower shall be liable for payment and performance of the Obligations to the full extent (but only to the extent) of the property and assets (including the Property) which constitute security for such Obligations. If default occurs in the timely and proper payment and performance of any such Obligations, any judicial proceedings brought by the Agency against Borrower shall be limited to the protection and preservation of the Property, the preservation, enforcement and foreclosure of the liens, mortgages, assignments, rights and security interests securing such Obligations and enforcement and collection of such Obligations for which Borrower remains directly liable as provided in this Section. If there is a foreclosure of any such liens, mortgages, assignments, rights and security interests by power of sale or otherwise, no personal judgment for any deficiency thereon shall be sought or obtained by the Agency against Borrower, or its partners, officers, directors, agents, attorneys, servants or employees.

2.3 Exceptions to Non-Recourse Liability. The limitations on recourse set forth in Section 2.2 shall not (a) constitute a waiver of any obligation evidenced by the Loan Documents; (b) limit the right of Agency to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under the Loan Documents 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 the Loan Documents; (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 Property or any other instrument securing the Loan Documents 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 Loan Documents; (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 from any person of all or any of the obligations evidenced and secured by the Loan Documents. 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, members, shareholders, partners or its successors and assigns received rentals, other revenues, or other payments or proceeds in respect of the Property, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the Property, ordinary and reasonable capital improvements to the 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 Property, which are then due and payable. Notwithstanding Section 2.2 or any other provision, Agency may recover directly from Borrower or from any other party who may be responsible for:

- (1) any damages, costs and expenses incurred by Agency as a result of fraud or any criminal act or acts of Borrower or any partner, member, shareholder, officer, director or employee of Borrower, or of any general or limited partner of Borrower;
- (2) any damages, costs and expenses incurred by Agency as a result of any misappropriation of funds provided for the construction of the Project, as described in the DDA, rents and revenues from the operation of the Project following an Event of Default, any funds on deposit in a replacement reserve or operating reserve account or security deposits held by Borrower with respect to the Property, or proceeds of insurance policies or condemnation proceeds;
- (3) any damages, costs and expenses incurred by the Agency as a result of the negligence of such person or entity, involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Materials by the person or entity responsible therefor; provided, however, that neither Borrower nor any member, partner, officer, director, agent, attorney, servant or employee of Borrower shall have any personal liability if the act or omission complained of was performed in good faith and was not reckless, wanton, intentional or grossly negligent; and
- (4) 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).

Section 3. BORROWER'S UNCONDITIONAL OBLIGATIONS

3.1 Unconditional Obligations. Borrower hereby agrees that the Obligations will be paid and performed strictly in accordance with the terms of this Indemnity, regardless of any law, regulation, or order now or hereafter in effect in any jurisdiction affecting any of the Loan Documents or affecting any of the rights of the Agency with respect thereto. The obligations of Borrower hereunder shall be absolute and unconditional irrespective of:

- (1) The validity, regularity, or enforceability of the Loan Documents or any other instrument or document executed or delivered in connection therewith;
- (2) Any alteration, amendment, modification, release, termination, or cancellation of any of the Loan Documents, or any change in the time, manner, or place of payment of, or in any other term in respect of, all or any of the obligations of Borrower contained in any of the Loan Documents;
- (3) Any extension of the maturity of the Agency Loan or any waiver of, or consent to any departure from, any provision contained in any of the Loan Documents;
- (4) Any exculpatory provision in any of the Loan Documents limiting the Agency's recourse to property encumbered by the Deed of Trust securing the Agency Loan, or to any other security, or limiting the Agency's rights to a deficiency judgment against Borrower;
- (5) Any exchange, addition, subordination, or release of, or non-perfection of any lien on or security interest in, any collateral for the Agency Loan, or any release, amendment, waiver of, or consent to any departure from any provision of, any other Borrower or guarantee given in respect of the Agency Loan;
- (6) The insolvency or bankruptcy of Borrower, Borrower, or of any indemnitor or guarantor under any other indemnity or guarantee given in respect of the Agency Loan; or
- (7) Any other circumstance that might otherwise constitute a defense available to, or a discharge of, Borrower, Borrower, or any other indemnitor or guarantor with respect to the Agency Loan or any or all of the Obligations.

3.2 Continuation. This Indemnity (a) is a continuing indemnity and shall remain in full force and effect until the satisfaction in full of all of the Obligations (notwithstanding the payment in full of the Agency Loan or the release or other extinguishment of the deed of trust or any other security for the Agency Loan); and (b) shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the Agency upon the insolvency, bankruptcy, or reorganization of Borrower or otherwise, all as though such payment had not been made.

3.3 Termination. Notwithstanding the payment (and performance) in full of all of the Obligations and the payment (or performance) in full of all of Borrower's obligations under the Loan Documents, this Indemnity shall not terminate if any of the following shall have occurred:

- (1) The Agency has at any time or in any manner participated in the management or control of, taken possession of (whether personally, by agent or by appointment of a receiver), or taken title to the Property or any portion thereof, whether by foreclosure, deed in lieu of foreclosure, sale under power of sale or otherwise; or
- (2) There has been a change, between the date hereof and the date on which all of the Obligations are paid and performed in full, in any Hazardous Materials laws, the effect of which may be to make a lender or mortgagee liable in respect of any of the Obligations, notwithstanding the fact that no event, circumstance, or condition of the nature described in paragraph (a) above ever occurred.

Section 4. WAIVER

Borrower hereby waives the following:

- (1) Promptness and diligence;
- (2) Notice of acceptance and notice of the incurrence of any obligation by Borrower;
- (3) Notice of any action taken by the Agency, Borrower, or any other interested party under any Loan Document or under any other agreement or instrument relating thereto;
- (4) All other notices, demands, and protests, and all other formalities of every kind, in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this Section 4, might constitute grounds for relieving Borrower of its Obligations hereunder;
- (5) The right to a trial by jury with respect to any dispute arising under, or relating to, this Indemnity;
- (6) Any requirement that the Agency protect, secure, perfect, or insure any security interest or lien in or on any property subject thereto;

- (7) Any requirement that the Agency exhaust any right or take any action against Borrower or any other person or collateral; and
- (8) Any defense that may arise by reason of:
 - (i) The incapacity, lack of authority, death or disability of, or revocation hereof by, any person or persons;
 - (ii) The failure of the Agency to file or enforce any claim against the estate (in probate, bankruptcy, or any other proceedings) of any person or persons; or
 - (iii) Any defense based upon an election of remedies by the Agency, including, without limitation, an election to proceed by nonjudicial foreclosure or which destroys or otherwise impairs the subrogation rights of Borrower or any other right of Borrower to proceed against any party.

Section 5. NOTICES

Any notice, demand, statement, request, or consent made hereunder shall be in writing and shall be personally served, mailed by first-class registered mail, return receipt requested, to the address set forth in the first paragraph of this Indemnity.

Any notice 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; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

Section 6. MISCELLANEOUS

6.1 Borrower shall make any payment required to be made hereunder in lawful money of the United States of America, and in same day funds, to the Agency at its address specified in the first paragraph hereof.

6.2 No amendment of any provision of this Indemnity shall be effective unless it is in writing and signed by Borrower and the Agency, and no waiver of any provision of this Indemnity, and no consent to any departure by Borrower from any provision of this Indemnity, shall be effective unless it is in writing and signed by the Agency, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

6.3 No failure on the part of the Agency to exercise, and no delay in exercising, any right hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Agency provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or

remedies provided by law. The rights of the Agency under any Loan Document against any party thereto are not conditional or contingent on any attempt by the Agency to exercise any of its rights under any other Loan Document against such party or against any other person or collateral.

6.4 Any provision of this Indemnity that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof and without affecting the validity or enforceability of such provision in any other jurisdiction.

6.5 This Indemnity shall (a) be binding upon Borrower, and Borrower's successors and assigns; and (b) inure, together with all rights and remedies of the Agency hereunder, to the benefit of the Agency, its respective directors, officers, employees, and agents, any successors to the Agency's interest in the Property, any other person who acquires any portion of the Property at a foreclosure sale or otherwise through the exercise of the Agency's rights and remedies under the Loan Documents, any successors to any such person, and all directors, officers, employees, and agents of all of the aforementioned parties. Without limiting the generality of clause (b) of the immediately preceding sentence, the Agency may, subject to, and in accordance with, the provisions of the Loan Documents, assign or otherwise transfer all or any portion of its rights and obligations under any other Loan Document, to any other person, and such other person shall thereupon become vested with all of the rights and obligations in respect thereof that were granted to the Agency herein or otherwise. None of the rights or obligations of Borrower hereunder may be assigned or otherwise transferred without the prior written consent of the Agency.

6.6 Borrower hereby (a) irrevocably submits to the jurisdiction of any California or federal court sitting, in each instance, in San Diego County in any action or proceeding arising out of or relating to this Indemnity, (b) waives any defense based on doctrines of venue or forum non convenient or similar rules or doctrines, and (c) irrevocably agrees that all claims in respect of any such action or proceeding may be heard and determined in such California or federal court. Borrower irrevocably consents to the service of any and all process which may be required or permitted in any such action or proceeding to the address specified in the first paragraph of this Indemnity, above. Borrower agrees that a final judgment in any such action or proceeding shall be inclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

6.7 The title of this document and the captions used herein are inserted only as a matter of convenience and for reference and shall in no way define, limit, or describe the scope or the intent of this Indemnity or any of the provisions hereof.

6.8 This Indemnity shall be governed by, and construed and interpreted in accordance with, the laws of the State of California applicable to contracts made and to be performed therein, except to the extent that the laws of the United States preempt the laws of the State of California.

6.9 This Indemnity may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute one agreement.

IN WITNESS WHEREOF, Borrower has duly executed this Indemnity as of the date first set forth above.

**LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,**

Dated: _____

By: _____

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels
President

EXHIBIT "A"
LEGAL DESCRIPTION

Attachment No. 13

UCC-1 Financing Statement

Collateral Description

All of the following described property located on the real property in the City of San Diego, County of San Diego, State of California more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof [Property].

All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Property.

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

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

Together with all plans, drawings, specifications, etc., and articles of personal property now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the completion and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner

**LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,**

Dated: _____

By: _____

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels, President

"Exhibit A"

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

Recording Requested by:
REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

When Recorded Return to:
Redevelopment Agency of the
City of San Diego
600 B Street, Suite 400
San Diego, California 92101

Attn: Jim LoBue

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT [Agreement] is made as of _____ between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic [hereinafter referred to as the Agency], LA ENTRADA HOUSING INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP [hereinafter referred to as Borrower] and _____ [Bank].

RECITALS

A. Agency and Borrower are parties to that certain Disposition and Development Agreement [DDA] concerning, among other things the conveyance by the Agency to Developer of that certain real property [Property] located in the City of San Diego, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

B. Pursuant to the California Community Redevelopment Law, the Agency has established a Low and Moderate Income Housing Fund and has deposited therein certain tax revenues made available to the Agency exclusively for the purpose of increasing and improving the community's supply of affordable low and moderate income housing [referred to in this Agreement as the NOFA Funds].

C. For the purpose of increasing the supply of housing in the City of San Diego that will be affordable to Low and Very Low Income households, Agency and Borrower have entered into that certain DDA, which is a public document on file in the office of the Agency Secretary and which is incorporated herein by this reference (any capitalized term that is not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Disposition and Development Agreement), providing, among other things, for certain loans of NOFA Funds to Borrower to provide a portion of the financing for the construction of a low income residential rental apartments and associated underground and sub-terrain parking garage to be constructed on the Property, consisting of 84 low and very low income residential apartments, plus 1 manager unit.

D. Pursuant to the DDA, among other things, the Agency has loaned to Borrower \$13,167,000 [Agency Residual Receipts Loan]. The Agency Residual Receipts Loan is evidenced by a promissory note in the principal amount of the Agency Residual Receipts Loan, dated on or about the date hereof [Agency Residual Receipts Note] secured by the following, each of which is dated on or about hereof: a Subordinate Deed of Trust, Security Agreement and Fixture Filing [Agency Deed of Trust]; an Assignment of Rents and Leases [Assignment of Rents]; and a UCC-1 Financing Statement [UCC-1]; referred to individually as an "Agency Loan Document" and collectively as the "Agency Loan Documents".

E. The Bank will originate a conventional first mortgage construction loan in the original principal amount of \$9,326,000 [Bank Loan]. The Bank Loan is evidenced by a promissory note in the amount of the Bank Loan [Bank Note] and is secured by, among other things, a Deed of Trust with Assignment of Leases and Rents, Security Agreement and Fixture Filing in favor of the Bank [Bank Deed of Trust]. The Bank Note and the Bank Deed of Trust and any other documents and instruments executed by Borrower in connection with the Bank Loan are referred to collectively as the "Bank Documents".

F. The Bank Documents are being or have been executed, delivered and recorded, as the case may be, prior to or concurrently with this Agreement.

G. The Agency and Bank have agreed and required as a condition of making their respective Loans that the order of priority of their respective liens be as follows: (1) the Bank Documents; and (2) the Agency Loan Documents.

H. Agency is willing to specifically and unconditionally subordinate the Agency Loan Documents to achieve and maintain the order of priority listed in Recital G.

THEREFORE, in consideration of the mutual benefits accruing to the Lenders and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency and the Bank hereby agree as follows:

1. The Bank Loan and the Bank Documents, together with any advances by Bank pursuant to the Bank Loan, shall at all times be prior and superior to the liens or charges of the Agency Loan and the Agency Loan Documents.

2. The Agency Loan and the Agency Loan Documents, together with any advances by the Agency pursuant to the Agency Loan Documents, shall at all times be junior and are hereby subordinated to the Bank Loan and the Bank Documents.

3. The Bank would not originate the Bank Loan, and the Agency would not have made the Agency Loan, without this Subordination Agreement.

4. This Agreement shall be the whole and only agreement with regard to the priority and subordination of the Bank Loan, the Bank Documents and the Agency Loan and the Agency Loan Documents and shall supersede and cancel, but only insofar as would affect the priority among the loans and documents referred to hereinabove, any prior agreements as to such subordination including, but not limited to, those provisions, if any, contained in any of such loans and documents which provide for the subordination of the lien or charge thereof to another loan or loans, document or documents, deed or deeds of trust or to a mortgage or mortgages.

5. Agency and Bank declare, agree and acknowledge that:

(a) Agency consents to and approves (i) all provisions of the Bank Note and Bank Deed of Trust; (ii) all agreements, including but not limited to reserve agreements, loan agreements, development or escrow agreements, between Borrower and Bank for the origination, disbursement and servicing of the Bank Loan, which prior to or concurrently herewith have been submitted to Agency.

(b) Bank consents to and approves all provisions of the Agency Loan Documents described in the Recitals above.

(c) Agency intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the Agency Loan Documents in favor of the prior lien or charges upon the Property and Improvements as referred to in this Agreement in favor of the Bank in the order of priority specified in this Agreement and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made, and specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

(d) Agency acknowledges that Bank will not be monitoring any loan disbursements on behalf of Agency.

6. Notwithstanding anything to the contrary contained in the Subordination Agreement, the parties hereto hereby acknowledge that California Health and Safety Code Section 33334.2 *et seq.*, which is the applicable State Law governing the program pursuant to which the Agency is authorized to make the Agency Loan, permits the Agency to subordinate the requirements contained in the Agency Loan Documents to the Bank's lien only if the Agency obtains commitments from the Bank designed to provide the Agency with an opportunity to protect its interests in the event of Borrower's default, as hereinafter set forth. Therefore, the Bank hereby agrees as follows:

(a) Upon the occurrence of an event of default under the Bank Deed of Trust and other Bank Loan documents, Bank shall promptly notify Agency at the address set forth in the Agency Deed of Trust of the occurrence of such event of default, which notification shall be provided to Agency within the time provided pursuant to California Civil Code section 2924b.(b)(1);

(b) The Agency shall have the right, during the cure periods which apply to the Borrower pursuant to the Bank Loan Documents to cure Borrower's default relative to the Bank Loan; and

(c) After a default on the Bank Loan Documents, but prior to a foreclosure sale or deed in lieu assignment of the Property and/or the Improvements, the Agency shall have the right to propose to Bank, without any obligation on the part of Bank to accept, terms and conditions pursuant to which Bank might agree to permit the restrictions on rent and occupancy of the Property as set forth in the Grant Deed to remain in effect following such foreclosure;

(d) After a default on the Bank Loan Documents, but prior to a foreclosure sale or deed in lieu assignment of the Property and/or the Improvements, the Agency shall have the right to take title to the Property and/or the Improvements and cure the default relative to the Bank Loan Documents, without Bank exercising any right it might otherwise have to accelerate the Bank Loan by reason of such title transfer; and

(e) After a default on the Bank Loan Documents, but prior to a foreclosure sale or deed in lieu assignment of the Property and the Improvements, the Agency shall have the right to purchase the Property and the Improvements from the Borrower and pay all amounts due and owing under the Bank Loan Documents.

7. 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.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS PROVISIONS WHICH ALLOW THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN LOANS WHICH MAY BE OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT AND WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

[SIGNATURES FOLLOW ON NEXT PAGE.]

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

Date: _____

By: _____

James T. Waring
Assistant Executive Director

LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,

Dated: _____

By: _____

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels
President

"Bank"

_____ BANK, FA

By: _____

Name:
Title:

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

Carol A. Leone
Deputy General Counsel

STATE OF CALIFORNIA)

) ss.
COUNTY OF SAN DIEGO)

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

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA)

) ss.

COUNTY OF _____)

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

WITNESS my hand and official seal.

Signature _____

EXHIBIT "A"

LEGAL DESCRIPTION

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

DISBURSEMENT AGREEMENT

THIS AGREEMENT is entered into between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO [Agency], _____ [Construction Lender], LA ENTRADA HOUSING INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP [Borrower].

RECITALS

A. Agency and Borrower have heretofore entered into that certain Disposition and Development Agreement dated _____, [DDA], relating to that real property legally described in Attachment No. 2 to the DDA [Property]. The DDA, the promissory note evidencing the Agency Loan (defined below), the deed of trust securing the Agency Loan, a Grant Deed dated on or about the date hereof, and other instruments referred to in the DDA, are sometimes referred to collectively as the "Agency Loan Documents."

B. In accordance with the DDA, Borrower intends to construct low income residential rental apartment project with associated underground and sub-terrain parking garage on the Property, consisting of 85 units, 84 of which shall be rented to Very Low Income and Low Income households, plus 1 manager unit, all as described in the Scope of Development attached to the DDA [Project]. The costs of the Project [Costs] are set forth in the Project Budget approved by the Agency and the Construction Lender as the final project budget, which is attached to this Agreement as Exhibit "A" and incorporated herein by this reference [Project Budget]. The Project Budget shall be subject to amendment from time-to-time, subject to the prior written approval by the Construction Lender and the Agency Executive Director or designee and as provided in this Agreement by the Construction Lender without the need for the Agency's consent, upon which approval the Project Budget shall be replaced by the approved revised Project Budget.

C. Pursuant to the DDA, Agency has agreed to make a Loan to Borrower [Agency Loan or NOFA Funds], to be used to finance a portion of the Costs. The Agency Loan is that Agency Residual Receipts Loan, in the original principal amount of \$13,167,000 evidenced by the Agency Residual Receipts Promissory Note and secured by the Agency Deed of Trust.

D. Construction Lender and Borrower have entered into that certain Construction Loan Agreement [Construction Loan Agreement], pursuant to which Construction Lender has agreed to lend Borrower funds in the amount of approximately \$9,326,000 [Construction Lender Funds] to finance a portion of the Costs. The Construction Loan Agreement, the promissory note evidencing the Construction Loan, the deed of trust securing the Construction Loan and other instruments referred to in the Construction Loan Agreement are sometimes referred to collectively as the "Construction Loan Documents."

E. In addition to the NOFA Funds and the Construction Lender Funds, Borrower will provide certain additional funds [collectively referred to as Borrower's Funds] to pay the

portion of the Costs in excess of the sum of the NOFA Funds and the Construction Lender Funds. The Borrower's Funds consist of the following:

- (1) Disbursement during the construction period of a portion of the capital contributions of the Tax Credit Equity Investor of Borrower [Tax Credit Equity Investor], as described in Borrower's Amended and Restated Agreement of Limited Partnership, dated as of _____ [Partnership Agreement], in the amount of \$13,579,000, sometimes also referred to as the "Tax Credit Proceeds", increasing to \$19,398,000 upon Completion and lease-up and stabilized occupancy;
- (2) In addition, although Borrower is entitled to a Developer Fee, Borrower has agreed to defer receipt of a portion thereof in the amount of up to \$500,000 [referred to as the Deferred Developer Fee] to be paid, with interest at the minimum interest rate allowed by the IRS, 50 percent out of Developer's share of Residual Receipts, and 50 percent out of Agency's share of Residual Receipts;
- (3) In addition, Borrower shall be responsible, during the construction period, to provide funds if and as needed to pay for cost overruns and contingencies not otherwise funded by other sources of construction financing, in accordance with the requirements and procedures of the Construction Loan Documents.
- (4) Pursuant to the DDA, Borrower is also required to apply for a Federal Home Loan Bank AHP Loan and San Diego Housing Commission funding. If such funding is acquired, it shall be applied to reduce the Agency Residual Receipts Loan (NOFA) funding.

F. The NOFA Funds, Construction Lender Funds and Borrower's Funds are referred to herein collectively as the "Project Funds." Agency and Construction Lender are referred to herein collectively as the "Lenders."

G. The Lenders and Borrower desire to enter into this Agreement solely to provide for the disbursement of the Project Funds for approved Costs and to provide for cooperation among the Lenders. The Parties realize that the specifics of this Agreement may need to be modified upon selection of a Construction lender, and therefore agree that the provisions of this agreement may be modified upon mutual written agreement of the Parties.

NOW, THEREFORE, the parties agree as follows:

1. Deposit and Use of Funds.

a. Borrower's Account. Except as otherwise provided by the Construction Lender, Borrower shall deposit the Borrower's Funds into a fully segregated disbursement account held by the Construction Lender, which shall be a money market account acceptable to the Borrower and Construction Lender and shall be pledged as security for the Construction Loan [Borrower's Account].

b. Loan Balancing.

(i) In the event either of the Construction Lender or Agency determines, from time-to-time, that the mathematically combined amounts of the NOFA Funds, Construction Loan proceeds, Borrower's Funds and cash commitments, as set forth in the attached Project Budget, are insufficient to pay all Costs, including increased costs due to change orders, cost overruns or otherwise, then, upon notice from the Agency or Construction Lender [Balancing Call], Borrower shall deposit into the Borrower's Account held by the Construction Lender such additional Borrower's Funds as may be necessary to pay all such obligations.

(ii) To the extent Borrower fails to deposit such additional Borrower's Funds into the Borrower's Account, Construction Lender shall have the right (but not the obligation) to exercise all rights and remedies under the Construction Loan Documents, including, without limitation, to declare a default, to commence judicial and non-judicial foreclosure actions, to seek the appointment of a receiver or to advance additional Construction Loan proceeds to pay such additional Costs as Construction Lender may deem necessary to protect its collateral and complete construction of the Project. Any additional amounts advanced by Construction Lender to pay such Costs shall (to the extent such Costs constitute Approved Costs, as hereinafter defined) be added to the stated loan amount of the Construction Loan secured by the Construction Lender's deed of trust and shall be and remain senior to the lien of the deed of trust securing the Note.

(iii) To the extent funds from Borrower's Account or any other Borrower Funds are used to pay such obligations, such funds shall be disbursed in accordance with the terms of the Construction Loan Documents, prior to the Agency Loan or the Construction Loan.

(iv) As used in this Agreement, the term "Approved Costs" shall mean all hard and soft costs (and modifications thereto), which were approved or deemed approved by the Construction Lender and the Agency, which are needed for the completion of the Project in accordance with Plans and Specifications for the Project which were approved or deemed approved by the Construction Lender and the Agency.

c. Amendments to Project Budget. Subject to the terms and provisions of this Agreement, the DDA and the Construction Loan Documents, any change order or Project Budget amendment [collectively referred to as a Revision] shall require the approval of the Agency and Construction Lender. The Agency shall be deemed to have approved any requested Revision for which Construction Lender's approval is not required under the terms of the Construction Loan Agreement, or which has been approved by the Construction Lender, if, within five working days after receipt of the request, Agency receives such explanation and/or back-up information as was received and relied upon by the Construction Lender in connection with its approval of the Revision, and if the following conditions are satisfied:

- (1) 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, (a) the funds in the line item(s) to be reduced remain sufficient for completion of the Project, and (b) the requested increase in one or more line item(s) is to be used to pay Approved Costs;

- (2) To the extent the Revision involves an increase in the total Project Budget, (a) additional funds in an amount equal to the increase in the total Project Budget will be provided by Borrower or the Construction Lender pursuant to the Loan Balancing procedure described in Section 1.b., above, and (b) the requested increase in the Project Budget is to be used to pay Approved Costs;

d. NOFA Funds. The NOFA Funds shall be deposited and held by the Agency as the Agency shall determine, to be disbursed as provided in this Agreement. The NOFA Funds are not pledged to the Construction Lender nor shall they constitute security for the Construction Loan.

e. Construction Loan. The Construction Loan Proceeds shall be deposited and held by the Construction Lender as the Construction Lender shall determine, to be disbursed as provided in the Construction Loan Agreement. The Construction Lender Funds are not pledged to the Agency, nor shall they constitute security for the Agency Loan.

f. Disbursement Schedule. The Disbursement Schedule attached to this Agreement as Exhibit "B" represents a good faith estimate of when the Project Funds will be disbursed to pay Costs. The Construction Lender, the Agency and the Borrower shall meet monthly, or more frequently as necessary, to update the Disbursement Schedule throughout the construction period.

2. Use of Funds to Pay Costs.

a. Approved Costs. The NOFA Funds, Construction Loan Proceeds and the Borrower's Funds shall be used exclusively for the payment of, or reimbursement for, Approved Costs as shown in the Project Budget, and as such costs may be amended from time to time with the written approval of the Construction Lender and the written approval or deemed approval of the Agency (subject to paragraph b. of this Section 2, below). Such payment of, or reimbursement for, Costs is to be made only after the Costs have been incurred by the Borrower. Approved Costs shall also include Agency's direct expenditure for legitimate project costs, such as property acquisition, relocation assistance, environmental remediation and Agency project administration costs.

b. Budget Amendments: Construction Lender's Right to Disburse Funds without Agency Approval. Notwithstanding any provision of this Agreement requiring approval by the Agency of amendments to the Project Budget, the Construction Lender shall have the right, without Agency approval, to disburse Borrower's Funds and Construction Lender Funds to pay Approved Costs shown in an amendment to the Project Budget which the Agency has deemed approved.

3. Draw Requests

a. Application for Payment. Disbursements of Project Funds shall be made upon submission of a written itemized statement or draw request in a form that is mutually acceptable to Construction Lender and Agency [Application for Payment or Draw Request], subject to the conditions set forth below. Prior to submitting any such Application for Payment to the Construction Lender or Agency for approval, Borrower shall first obtain such approval of the

Tax Credit Equity Investor as may be required by applicable provisions of the Agreement of Limited Partnership as amended. The term "disbursement" shall include, without limitation, disbursement of NOFA Funds, Borrower's Funds that have been delivered to Construction Lender as "Borrower's Funds," Borrower's prior expenditures of Borrower's Funds, and Construction Lender Funds. Each Lender shall determine whether or not the conditions precedent to its obligation to advance its loan have been satisfied or whether or not to waive any condition precedent to its obligation to advance its loan which such Lender determines has not been satisfied.

b. Order of Disbursement. Each Lender and Borrower shall disburse its respective Project Funds in the order set forth below:

- (1) First, except as otherwise provided in the Agreement of Limited Partnership, as amended, all of the Borrower's Funds.
- (2) Second, all available Construction Loan proceeds and the remainder of unspent Agency Loan proceeds, concurrently on a pro rata basis. Disbursement of proceeds from the Construction Loan and Agency Loan shall be subject to a hard cost retention [Retention] equal to 10 percent of all hard costs.
- (3) Third, except to the extent the Agency and Construction Lender have released Retention amounts prior to Completion (as provided in Section 5 of this Agreement), the respective amounts of Retention relating to the Construction Loan and Agency Loan. Subject to any additional requirements of the Construction Lender, and except as provided in Section 5, the Retention shall be disbursed upon the last to occur of the following: (i) issuance of a certificate of occupancy for the development by the City of San Diego; (ii) recordation of a Notice of Completion; (iii) the project architect certifies that the Improvements have been completed in a good and workmanlike manner and in accordance with the approved plans and specifications; (iv) any mechanic's liens that have been recorded or stop notices that have been delivered to either Agency or the Construction Lender have been paid, settled or otherwise extinguished, discharged, released, waived or bonded around, and the Agency and Construction Lender have been provided satisfactory evidence of such payment, settlement or discharge; and (v) the Agency issues its Certificate of Completion pursuant to the DDA. Notwithstanding the foregoing and notwithstanding the provision of any other document, and except as provided in Section 5, (A) the Retention shall not be disbursed until at least thirty-five days after the Notice of Completion has been recorded, and (B) the Agency shall not issue its Certificate of Completion until all other conditions for the release of the Retention have been met.

Retention shall not be withheld for those portions of a Draw Request that are not allocated to hard costs. Further, notwithstanding the foregoing, 50 percent of NOFA Funds will be available

for disbursement at commencement of construction; 30 percent at 50% completion of construction, and 10 percent upon the issuance of a Notice of Completion.

c. Contents of Application for Payment. Subject to the requirements of the Construction Lender (which shall not, in any event, apply to the disbursement of NOFA Funds), each Application for Payment shall set forth:

- (1) a description of the work performed, material supplied and/or Costs incurred or due for which disbursement is requested with respect to any Costs shown as a line item [Item] in the Project Budget;
- (2) the total amount incurred, expended and/or due for each requested Item, less prior disbursements; and
- (3) the percentage of completion of the portion of the Work to be paid from the Item. Agency hereby consents to the use of the form of Application for Payment attached to the Construction Loan Agreement for draw requests.

d. Delivery of Applications for Payment. Borrower shall deliver copies of each Application for Payment concurrently to Construction Lender and Agency. Each Application for Payment shall be subject to the approval of the Agency and Construction Lender, with respect to their respective Loan, in accordance with this Agreement.

e. Documentation. Each Application for Payment shall be accompanied by the following: any applicable change order(s) to the general contract; and copies of paid invoices and unconditional lien releases for construction costs paid with the proceeds of the prior Application for Payment (except for the first Application for Payment), and conditional (upon receipt of payment) lien releases for construction costs to be paid with the proceeds of the instant Application for Payment, which invoices and lien releases shall be considered a part of each Application for Payment. Where Borrower is requesting Project Funds for Costs other than general contract payments, Borrower shall attach to the Application for Payment invoices or such other appropriate documentation to evidence, document, justify and support the request, which shall be an amount within the amount of the applicable line item in the Project Budget. Either Agency or Construction Lender may require Borrower to separate lien waivers and hard cost invoices from the other materials provided with Applications for Payment.

f. Submission to Agency. Immediately after each disbursement pursuant to any Application for Payment, Construction Lender shall transmit to Agency a copy of Construction Lender's inspection report or other documentation indicating the Construction Lender's inspector's determination of the percentage of work complete pertaining to such Application for Payment. No representation or warranty of Construction Lender is made or shall be implied with respect to any matter shown in such inspection report or other documentation.

g. Statement of Previously Paid Costs. Prior to or concurrently with the execution of this Agreement, Borrower shall prepare and submit to the Construction Lender and Agency a statement of all Costs previously paid by Borrower with Borrower's Cash Equity, accompanied by invoices or such other appropriate documentation to evidence, document, justify and support

the payment, which shall be an amount within the amount of the applicable line item in the Project Budget. Expenditures previously made by Borrower and approved by the Agency and Construction Lender pursuant to this paragraph g. shall be deemed disbursed pursuant to paragraph b.(1) of this Section 3.

4. Approval of Draw Requests

a. General. Approval of each Draw Request shall be subject to satisfaction of the requirements of this Agreement and the respective Loan Documents.

b. Procedure. Each Lender shall, within fifteen business days after receipt of an Application for Payment containing all of the items described in Section 3, above, determine the amount of the Application for Payment to be approved, notify Borrower, and, if and as required pursuant to paragraph b. of Section 3, above, disburse the approved amount.

c. Disapprovals. Any item in an Application for Payment which is not specifically approved within fifteen business days shall be deemed disapproved. On the basis of the progress of the work performed on the Project and the conditions precedent to making disbursements contained in their respective agreements with Borrower, either Construction Lender or Agency may disapprove all or part of their respective portions of a requested draw request. In the event either Construction Lender or Agency disapprove any portion of the amount requested by Borrower in an Application for Payment [disapproved amount], such Lender shall promptly notify the Borrower of the disapproved amount and the reason therefor. The disapproval by any Lender of any amount requested in an Application for Payment is not binding on the other Lender. It is the responsibility of the Borrower to notify all Lenders of the approval and disapproval of all draw requests.

d. Disbursement by Construction Lender to Pay Disputed Amounts. Notwithstanding any provision of this Agreement requiring approval by all Lenders of disbursements to be made by any Lender, the Construction Lender shall have the right, without Agency approval, to disburse Borrower's Funds and Construction Lender Funds to pay Approved Costs as provided in an Application for Payment that is not approved by Agency, including Costs to pay cost overruns, without regard to whether such advance would cause the outstanding principal amount of the Construction Loan to exceed the original stated amount thereof, and all such amounts so advanced to pay Approved Costs shall be and remain senior to the liens of the deeds of trust securing the Agency Loan all on the terms and conditions set forth in any applicable subordination agreement. Notwithstanding any provision in this Agreement or any other document or instrument, any disbursements of Construction Lender's Funds pursuant to this Section 4.f to pay Approved Costs shall be deemed approved disbursements for purposes of subordination of the Agency Loan to the Construction Loan, and the subordination of the Agency Loan to the Construction Loan shall include all such disbursements and advances by the Construction Lender, all on terms and conditions set forth in the respective subordination agreement.

e. Right to Condition Disbursements. The Agency and Construction Lender shall have the right to condition any disbursement upon receipt and approval of such documentation, evidence or information that such Lender may request, including, but not limited to, vouchers,

invoices, and architect's inspector's and/or engineer's periodic certifications of the percentage and/or stage of construction that has been completed.

f. General Conditions Applicable to Disbursements. Disbursements shall be subject to the following conditions:

- (1) Disbursement of NOFA Funds and Construction Loan Funds for "hard costs" shall be subject to a 10 percent Retention.
- (2) Construction Lender shall use the disbursement procedures set forth in the Construction Loan Documents, Agency shall use the disbursement procedures set forth in the Agency Loan Documents and this Agreement; provided, however, none of the Lenders shall be obligated to disburse any Project Funds until all of the Lenders have approved, or shall be deemed to have approved, all or a portion of the Application for Payment for the funds to be disbursed; and
- (3) The Lenders shall make disbursements of Project Funds: (a) to Borrower for reimbursement of soft costs incurred and paid by Borrower and for payment to third-party contractors, subcontractors or creditors of the Project, as the case may be; or (b) to Construction Lender for financing costs, including without limitation, loan fees, interest and reimbursement for Construction Lender's costs as set forth in the Construction Loan Documents and included in the Project Budget. Notwithstanding the foregoing, Agency and Construction Lender shall each have the right in its sole discretion to make disbursements of Project Funds directly to third parties entitled to such payment.

5. Release of Retention Amounts Prior to Completion.

The Lenders shall have the right to do any of the following: (a) not withhold any Retention from subcontractors in certain categories designated by Borrower; (b) release Retention amounts relating to subcontractors in categories designated by Borrower prior to Completion; (c) release Retention amounts relating to subcontractors in categories designated by Borrower prior to Completion upon satisfaction of the following conditions as to such subcontract: (i) submission to the Lenders of unconditional lien releases or waivers obtained by Borrower or Borrower's agent; (ii) the project architect certifies that the work covered by such subcontract has been completed in a good and workmanlike manner and in accordance with the approved plans and specifications; and (iii) any mechanic's liens that have been recorded or stop notices that have been delivered to either Agency or Construction Lender have been paid, settled, bonded around or otherwise extinguished or discharged and both Lenders have been provided satisfactory evidence of such payment, settlement, bond or discharge, including without limitation all statutory waivers; or (d) withhold Retention from subcontractors performing certain categories of work designated by Borrower until 50 percent of that scope of work is completed, as determined by the Construction Lender pursuant to the Construction Loan Agreement.

6. Approval of Final Draw Request

Subject to any additional conditions set forth in the Construction Loan Agreement (which shall not, in any event, apply to any disbursement of NOFA Funds), the final contractor's invoice (representing any retention on the construction contract) shall be disbursed to Borrower upon the submission by Borrower of documentation of the final cost of completing the Project, and the following [referred to as the Completion]: (a) issuance of a certificate of occupancy for the Project by the City of San Diego, (b) recordation of a Notice of Completion, (c) submission to the Lenders of unconditional lien releases or waivers obtained by Borrower or Borrower's agent, (d) the project architect certifies that the Project has been completed in a good and workmanlike manner and in accordance with the approved plans and specifications, (e) any mechanic's liens that have been recorded or stop notices that have been delivered to either Agency or Construction Lender have been paid, settled, bonded around or otherwise extinguished or discharged and the Lenders have been provided satisfactory evidence of such payment, settlement, bond or discharge, including without limitation all statutory waivers, and (f) the Agency issues its Certificate of Completion pursuant to the DDA. Notwithstanding the foregoing and notwithstanding the provision of any other document, except as provided in Section 5, above, the Retention shall not be disbursed until at least thirty-five (35) days after the Notice of Completion has been recorded.

7. Disbursement of Borrower's Funds.

Construction Lender shall disburse all of the Borrower's Funds to pay Costs on the basis of Applications for Payment approved by the Construction Lender and approved or deemed approved by the Agency in accordance with this Agreement.

8. Allocation of Cost Savings

If, on the date of Completion, as defined in Section 4, above, the sum of all Project Funds disbursed, plus any Retention amounts then owing to contractors and others, plus any unpaid Costs set forth in the Project Budget which the Lenders agree are to be disbursed subsequent to the Completion Date (such as, by way of example only and without limiting the generality of the foregoing, Costs associated with funding final Tax Credit Equity Investor capital contributions, and Costs for commercial tenant improvements) is less than \$ _____ (the amount of such savings being referred to herein as the "Cost Savings"), the following shall occur: (a) to the extent of the Cost Savings, the Agency Retention then held by Agency shall be released to the Agency as a reduction in the principal amount of the Agency Residual Receipts Loan to; and (b) each Lender's unfunded commitment shall terminate.

9. Inspection of the Project.

The Lenders shall have the right to inspect the Property during construction and agree to deliver to each other copies of any inspection reports. Inspection of the Property shall be for the sole purpose of protecting the respective security of the Lenders and is not to be construed as a representation by such Lender that there has been compliance with plans or that the Property will be free of faulty materials or workmanship. The Borrower may make or cause to be made such other independent inspections as the Borrower may desire for its own protection.

10. Supervision of Construction.

The Lenders shall be under no obligation to perform any of the construction or complete the construction of the improvements on the Property, or to supervise any construction on the Property, and shall not be responsible for inadequate or deficient contractors, subcontractors, materials, equipment or supplies. Neither the Agency nor Construction Lender is the agent for the other or for Borrower, nor are they partners or joint venturers with each other or with Borrower. Neither the Agency nor the Construction Lender shall have any fiduciary duty or obligation to the other Lender.

11. Use of NOFA Funds by Construction Lender or Assignee after Foreclosure.

The Agency and Construction Lender agree as follows:

a. Construction Lender or Assignee May Assume Agency DDA. In the event of (1) a default by Borrower under the terms of the DDA, which remains uncured after notice to the Borrower pursuant to the DDA which results in the termination of the DDA by the Agency, and/or (2) a foreclosure by the Construction Lender, or conveyance to Construction Lender by deed in lieu of foreclosure, the Construction Lender [and the assignee of such Lender, referred to herein as the Assignee] shall have the right to assume the rights and obligations of Borrower under the DDA, as if the DDA had not been terminated. The Construction Lender or Assignee, as the case may be, shall be referred to as the "Party in Possession".

b. Conditions to Continued Disbursement of Agency Loan. The Agency shall continue to disburse the un-disbursed portion of the Agency Loan for the payment of Project Costs as provided herein, upon and subject to: (a) the execution of an Assumption Agreement acceptable to the Agency and the Party in Possession, pursuant to which the Party in Possession agrees to construct and operate the Project in accordance with the terms and conditions of the DDA, as the DDA, may be further amended by mutual agreement of the Agency and the Party in Possession; and (b) to the extent necessary, the execution or re-execution and recordation or re-recordation, of the promissory Note evidencing the Agency Loan, the deed of trust and other instruments securing the Agency Loan and the Agreement Affecting Real Property, provided, however, that nothing contained herein shall obligate the Party in Possession to cure any default of Borrower under the Agency DDA, which is not curable by the Party in Possession.

c. Procedure if Party in Possession Fails to Assume Agency DDA. In the event of a default by Borrower under the terms of the DDA, which remains uncured after notice to the Borrower pursuant to the DDA, and/or results in the termination of the DDA, by the Agency, or a default by Borrower under the Construction Loan Agreement, pursuant to which Construction Lender elects to foreclose on its deed of trust, or accept a deed in lieu of foreclosure, or otherwise become the owner of the Property, and the Agency and the Party in Possession fail to enter into an Assumption Agreement as described in paragraph b. within ninety days after such termination or foreclosure (or such later date as the Party in Possession and the Agency may agree to in writing), either party may terminate this Agreement by providing written notice of termination to the other party. Provided, however, that in the event of a default by the Borrower under the DDA, which is also a default under the Construction Lender Documents, the applicable cure periods set forth in the DDA, shall be stayed from the time the foreclosing Lender provides

notice to the Agency and during the period provided for the Agency to cure the default. Upon termination of this Agreement, the Agency shall have no further obligation to disburse any un-disbursed portion of the Agency Loan to the Borrower, the Construction Lender or any other party, and the Construction Lender shall have no further obligation to the Agency or any other person to disburse any un-disbursed portion of the Construction Loan pursuant to this Agreement.

d. Reservation of Rights. Nothing contained herein shall be construed as restricting, limiting, amending or modifying the rights of the parties in the DDA, or the Construction Loan Agreement, as they relate to defaults or remedies, including, *inter alia*, the right of each party under its respective security instruments to foreclose on the Property, or to seek recourse under any guaranties.

12. Integrated Agreement.

This Agreement is made for the sole benefit and protection of the parties hereto and no other person or persons shall have any right of action or right to rely hereon. As this Agreement contains all the terms and conditions agreed upon between the parties, no other agreement regarding the subject matter thereof shall be deemed to exist or bind any party unless in writing and signed by the party to be charged. Notwithstanding the foregoing sentence or any other provision of this Agreement, this Agreement does not supersede and shall not be deemed to amend any of the Construction Loan Documents or any of the Agency Loan Documents.

13. Termination of this Agreement.

This Agreement shall terminate when all of the Project Funds have been fully disbursed.

14. Counterparts.

This Agreement may be signed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument with the same effect as if all signatories had executed the same instrument.

15. Binding Effect.

This Agreement shall be binding on and inure to the benefit of the parties to this Agreement and their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.

16. Governing Law.

This Agreement has been negotiated and entered in the State of California, and shall be governed by, construed and enforced in accordance with the internal laws of the State of California, applied to contracts made in California by California domiciliaries to be wholly performed in California.

17. Titles and Captions.

Titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or any provision hereof.

18. Interpretation.

No provision in this Agreement is to be interpreted for or against either party because that party or his legal representatives drafted such provision.

19. Waiver; Amendments.

No breach of any provision hereof may be waived unless in writing. 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. This Agreement may be amended only by a written agreement executed by the parties in interest at the time of the modification.

20. Further Assurances.

The parties hereto hereby agree to execute such other documents and to take such other action as may be reasonably necessary to further the purposes of this Agreement.

21. Severance.

If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid or enforceable, such provision will be deemed to be severed and deleted from the agreement as a whole and neither such provision, nor its severance and deletion shall in any way affect the validity of the remaining provisions of this Agreement.

22. Independent Advice of Counsel.

The parties hereto and each of them, represent and declare that in executing this Agreement they rely solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims, and that they have not been influenced to any extent whatsoever in executing the same by any of the parties hereto or by any person representing them, or any of them.

23. Voluntary Agreement.

The parties hereto, and each of them, further represent and declare that they carefully read this Agreement and know the contents thereof, and that they sign the same freely and voluntarily.

24. Attorneys' Fees.

In the event of any dispute between the parties regarding this Agreement, the prevailing party shall be entitled to recover costs and expenses, including but not limited to reasonable attorneys' fees.

IN WITNESS WHEREOF, the Agency, Construction Lender and the Borrower have executed this Agreement as of the date set forth above.

**REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO**

Date: _____

By: _____

James T. Waring
Assistant Executive Director

APPROVED AS TO FORM AND LEGALITY

Michael J. Aguirre
Agency General Counsel

By: _____

Carol A. Leone
Deputy General Counsel

[Signatures continued on next page.]

**LA ENTRADA HOUSING INVESTORS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP,**

Dated: _____

By: _____

Las Palmas Foundation,
a California nonprofit public benefit
corporation, Its General Partner
Joseph M. Michaels
President

"Bank"

_____ BANK, FA

By: _____

Name:

Title:

Exhibit "A" to Disbursement Agreement

PROJECT BUDGET

Exhibit "B" to Disbursement Agreement

DISBURSEMENT SCHEDULE

50 percent of NOFA Funds will be disbursed at beginning of construction; 30 percent at 50 percent completion, 10 percent at Notice of Completion and the final 10 percent upon Project Completion and Acceptance.

EQUAL OPPORTUNITY CONTRACTING REQUIREMENTS

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I. **City's Equal Opportunity Commitment.** The City of San Diego (City) is strongly committed to equal opportunity for employees, developers, contractors, subcontractors, subconsultants and vendors/suppliers doing business with the City. The City encourages its developers to share this commitment.

II. **Demonstrated Commitment to Equal Opportunity.** The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion. Developers are encouraged to take positive steps to diversify and expand their contractor, subcontractor, subconsultant, and vendor/supplier solicitation base and to offer contracting opportunities to these groups. To support its Equal Opportunity Contracting commitment, the Developer is required to submit with its development proposal/application for Affordable Housing Program Funding (NOFA) a Letter of Commitment which must contain the following:

- A. Subcontracting Commitment Goal. Anticipated subcontracting participation goal for utilization of Disadvantaged Business Enterprises (DBE's) and underrepresented firms during the course of the project.
- B. Outreach Efforts. Network activities and outreach strategies intended to be utilized to recruit, hire, train and promote a diverse workforce.
- C. Community Activities. Listing of Developer's current community activities such as membership and participation in local organizations, associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.

- A. Quarterly Update Report. Developer is required to submit quarterly reports detailing and explaining efforts made to reach its stated commitment goal.
 - 1. Due Date: *Quarterly Update Report* must be submitted every three months by the 30th day of the month.
- B. Monthly Invoicing Report. Developer must list monthly dollar amounts invoiced and paid by contractor to subcontractor, subconsultant and vendor/supplier.
- C. Monthly Employment Report. Developer must have Contractor list each employee working on the specific project by full name, social security number, gender, ethnic category, craft and employee source. Developer is responsible for collecting and submitting *Monthly Employment Report* from prime contractor and all subcontractors at any level, working at the site. Contractors and all subcontractors must submit this report monthly until their portion of work is complete. Reporting period is from first day of calendar month through last day of calendar month and reflects total work hours performed on this project.
 - 1. Due Date: *Monthly Invoicing Report* and *Monthly Employment Report* must be submitted by the 5th day of the subsequent month.
- D. Certified Payroll. If project is federally and/or state funded prevailing wages apply and certified payrolls must be submitted either weekly, bi-weekly or monthly.

During the course of the project, reports and certified payrolls must be submitted to the EOC Program Manager at 1010 Second Ave., Suite 500, San Diego, CA 92101.

IV. Nondiscrimination in Contracting Ordinance. All developers, contractors, and consultants doing business with the City, and their subcontractors, subconsultants and vendors/suppliers must comply with requirements of the City's *Nondiscrimination in Contracting Ordinance*, San Diego Municipal Code Sections 22.3501 through 22.3517.

- A. Developers Proposal/Application to include Disclosure of Discrimination Complaints. As part of its proposal/application, Developer shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Developer in a legal or administrative proceeding alleging that Developer discriminated against its employees, subcontractors, subconsultants and vendors/suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
- B. Contract Language. The following language shall be included in contracts for City projects between the Developer and any contractor, subcontractor, subconsultant and vendor/supplier:

Developer shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors,

subconsulting opportunities. Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

- C. Compliance Investigations. Upon the City's request, Developer agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all subcontractors, subconsultants, vendors, and suppliers that Developer has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Developer for each subcontract or supply contract. Developer further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's *Nondiscrimination in Contracting Ordinance*, Municipal Code Sections 22.3501 through 22.3517. Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Developer up to and including contract termination, debarment and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance*. Developer further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Ordinance*.

V. **Equal Employment Opportunity.** Developers shall comply with requirements of San Diego Ordinance No. 18173, Section 22.2701 through 22.2707, Equal Employment Opportunity Outreach Program. Developers must submit with its proposal/application a *Work Force Report* or an *Equal Employment Opportunity (EEO) Plan* to the Manager of the City of San Diego Equal Opportunity Contracting for approval. All submittals must be sent to 1010 Second Ave., Suite 500, San Diego, CA 92101.

A. Work Force Report. If a *Work Force Report* (Attachment AA) is submitted, and the Work Force Analysis reflects under representations when compared to County Labor Force Availability data, Developer will be required to submit an *Equal Employment Opportunity Plan*.

B. Equal Employment Opportunity Plan. If an *Equal Employment Opportunity Plan* is submitted, it must include at least the following assurances that:

1. The Developer will maintain a working environment free of discrimination harassment, intimidation and coercion at all sites and in all facilities at which the Developer's employees are assigned to work;
2. A responsible official is designated to monitor all employment related activity to ensure the Developer's EEO Policy is being carried out and to submit reports relating to EEO provisions;
3. Developer disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;

performance under the EEO Policy and maintains written documentation of these reviews;

5. The Developer discusses its EEO Policy Statement with Subconsultants with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;
6. The Developer documents and maintains a record of all bid solicitations and outreach efforts to and from subcontractors and subconsultants, consultant associations, vendors/suppliers and other business associations;
7. The Developer disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit, maintains files documenting these efforts, and provides copies of these advertisements to the City upon request;
8. The Developer disseminates its EEO Policy to union and community organizations;
9. The Developer provides immediate written notification to the City when any union referral process has impeded the Developer's efforts to maintain its EEO Policy;
10. The Developer maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses;
11. The Developer maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken;
12. The Developer encourages all present employees, including people of color and women employees, to recruit others;
13. The Developer maintains all employment selection process information with records of all tests and other selection criteria;
14. The Developer develops and maintains documentation for on-the-job training opportunities and/or participates in training programs for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Developer's employment needs;

to seek and prepare appropriately for such opportunities;

16. The Developer ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes;
17. The Developer establishes and documents policies and procedures to ensure job classifications, work assignments, promotional tests, recruitment and other personnel practices do not have a discriminatory effect; and
18. The Developer is encouraged to participate in voluntary associations, which assist in fulfilling one or more of its non-discrimination obligations. The efforts of a consultant association, consultant/community professional association, foundation or other similar group of which the Developer is a member will be considered as being part of fulfilling these obligations, provided the Developer actively participates.

VI. List of Subcontractors. Developers are required to submit a *Subcontractors List* for their Prime Contractor at the start of the project. As subcontractors are added to the project, the Developer is required to notify EOC by submitting an updated *Subcontractors List* within five (5) days of addition of subcontractor to the project.

A. Subcontractors List. The *Subcontractors List* (Attachment EOCP-7) shall indicate the name and address, scope of work, dollar amount and percent of total proposed subcontract amount, certification status and where certified for each proposed subcontractor.

1. Subcontractors must be named on the *Subcontractors List* if they receive more than one-half of one percent (0.5%) of the Developer's fee.

VII. Certification.

A. The City of San Diego is a signatory to a Memorandum of Agreement (MOA) in the statewide California Unified Certification Program, and therefore has adopted a policy regarding certification of DBE firms. Pursuant to the MOA, a DBE can be certified by any participating government agency in the State of California.

B. The City will accept a current certification by the State of California Department of Transportation (CALTRANS) or any other participating government agency in the State of California as an MBE or WBE: or

C. The City will accept current DVBE certification granted by the State of California's Department of General Services, Office of Small and Minority Business, (916) 322-5060.

VIII. Definitions.

Certified "Minority Business Enterprise" (MBE) means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or

percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified "**Women Business Enterprise**" (**WBE**) means a business which is at least fifty one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified "**Disadvantaged Business Enterprise**" (**DBE**) means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

Certified "**Disabled Veteran Business Enterprise**" (**DVBE**) means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(ies).

"**Other Business Enterprise**" (**OBE**) means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

IX. List of Attachments.

EOC-7- Subcontractors List

EOC -8- Subconsultants List

EOC -AA (1-3) - Work Force Report

EOC-BB - Developer Monthly Invoicing Report

EOC-CC-Monthly Employment Report

INFORMATION REGARDING SUBCONTRACTOR PARTICIPATION:

1. Subcontractor's List shall include name and complete address of all Subcontractors who will receive more than one half of one percent (0.5%) of the Developer's fee.
2. Developer shall also submit subcontractor commitment letters on subcontractor's letterhead, no more than one page each, from subcontractors listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.
3. Subcontractors shall be used for scope of work listed. No changes to this Subcontractors List will be allowed without prior written City approval.

NAME AND ADDRESS OF SUBCONTRACTORS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/DBE/DVBE/OBE	**WHERE CERTIFIED

**For information only.* As appropriate, Developer shall identify Subcontractors as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

***For information only.* As appropriate, Developer shall indicate if Subcontractor is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS

SUBCONSULTANTS LIST

INFORMATION REGARDING SUBCONSULTANTS PARTICIPATION:

4. Subconsultant's List shall include name and complete address of all Subconsultants who will receive more than one half of one percent (0.5%) of the Prime Consultant's fee.

5. Developer shall also submit Subconsultant commitment letters on Subconsultant's letterhead, no more than one page each, from Subconsultants listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

6. Subconsultants shall be used for scope of work listed. No changes to this Subconsultants

NAME AND ADDRESS SUBCONSULTANTS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/ DBE/DVBE/ OBE	**WHERE CERTIFIED

List will be allowed without prior written City approval.

**For information only.* As appropriate, Developer shall identify Subconsultants as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

State of California Department of Transportation
City of San Diego
State of California Department of Transportation

CALTRANS
CITY
CALTRANS



THE CITY OF SAN DIEGO
EQUAL OPPORTUNITY CONTRACTING
 1010 SECOND AVENUE, SUITE 500
 SAN DIEGO, CA 92101
 PHONE (619) 533-4464 • FAX (619) 533-4474

WORK FORCE REPORT

The objective of the Equal Employment Opportunity is to ensure that contractors doing business with the City, or receiving funds from the City, will not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship.

NO OTHER FORMS WILL BE ACCEPTED CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: _____

ADA/DBA: _____

Address (Corporate Headquarters, where applicable): _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ - _____ Fax Number: () _____ - _____

Name of Company CEO: _____

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ - _____ Fax Number: () _____ - _____

Type of Business: _____ Type of License: _____

The Company has appointed: _____

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: _____

Telephone Number: () _____ - _____ Fax Number: () _____ - _____

For Firm's: San Diego Work Force and/or Managing Office Work Force

I, The undersigned representative of _____

(Firm Name)

(County)

(State)

hereby certify that information provided herein is true and correct. This document was executed on this day of _____, 20____

(Authorized Signature)

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: _____ DATE: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) African-American, Black
- (2) Latino, Hispanic, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) Caucasian
- (7) Other ethnicity; not falling into other groups

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
	Executive, Administrative, Managerial													
Professional Specialty														
Engineers/Architects														
Technicians and Related Support														
Sales														
Administrative Support/Clerical														
Services														
Precision Production, Craft and Repair														
Machine Operators, Assemblers, Inspectors														
Transportation and Material Moving														
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*														

*Construction laborers and other field employees are not to be included on this page

TOTALS EACH COLUMN														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

GRAND TOTAL ALL EMPLOYEES

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

NON-PROFIT ORGANIZATIONS ONLY:

BOARD OF DIRECTORS														
VOLUNTEERS														
ARTISTS														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns per row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full- or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--|--|
| (1) African-American, Black | (5) Filipino |
| (2) Latino, Hispanic, Mexican-American, Puerto Rican | (6) Caucasian |
| (3) Asian, Pacific Islander | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo | |

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Carpenter														
Drywall Installer														
Electrician														
Elevator Installers														
Finishers, Concrete or Terrazzo														
Glaziers														
Helpers, Construction Trade														
Ironworkers, Structural Metal Workers														
Laborers														
Millwrights														
Masons, Bricklayers														
Tile setters														
Operators														
Painters														
Pipe fitter, Plumbers														
Plasterers														
Roofers														
Security, Protective Services														
Sheet Metal, Duct Installers														
Welders, Cutters														
TOTALS EACH COLUMN														
GRAND TOTAL ALL EMPLOYEES														
INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:														
DISABLED														

MONTHLY EMPLOYMENT REPORT

Contractor: _____

Employer I.D. Number: _____

Project Title: _____

Work Order Number: _____

Reporting Period: From: _____ To: _____

NOFA Project No: _____

	Employee List <small>Last Name, First Name, Middle Initial</small>	Social Security #	Male or Female	1 Ethnic Symbol	Craft	2 Employee Source	Number of Hours Worked
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							

1 Ethnic Symbol	
Black, African American	BL
Mexican American, Hispanic, Latino, Puerto Rican	MA
Native American, American Indian, Eskimo	NA
Asian, Pacific Islander	AP
Filipino	FI
Caucasian	CA
Other Ethnicity (not defined above)	OTH

2 Employee Source	
Apprenticeship Program	A
Employment Agency	E
Training Program	T
Union Hiring Hall	U
Other	O

I certify under penalty of perjury that the foregoing information is true and correct:

Authorized Signature

Printed Name / Title

Date Prepared

Attachment No. 17

CHECK LIST FOR UNIVERSAL DESIGN FEATURES

1. Stepless front entrance or other primary entrance
2. a) Stacked closets for elevator lift space (the center floor would be framed to allow for the shared ceiling/floor to be knocked out for future elevator)
b) Or, a bedroom on first floor
3. Full bath on first floor
4. Clear floor space in bathroom and kitchen to provide a 60" turning circle or a 30" x 48" parallel use/work space in front of each fixture or appliance.
48" clear floor space in front of toilet and parallel to bathtub; and
36" clear width for toilet fixture.
5. Wall framing reinforcement around toilet and bath fixtures to allow for the future installation of a grab bar feature
6. 36" wide exterior door(s) and 34" interior passage doors on the ground floor. Include 30" x 48" space clear of any door swing.
7. 40" wide hall width.
8. Space for adaptable kitchen cabinets to allow for 48" clear width, clear space below sink, cabinets below counter.
9. 30" wide accessible counter work space at 34" usable height, or, two (2) bread boards permanently installed at 34" height in kitchen.
10. Light switches, electrical receptacles, and environmental controls at an accessible height.
11. Accessible route of travel connecting the kitchen, bathroom, and other primary function space on the ground floor.

